



CITY OF DURHAM

Department of Police
Division of Training/Personnel Services
505 West Chapel Hill Street
Durham, NC 27701

Request for Proposals for Police Promotional Assessment Services

October 6, 2014

Title and Purpose of RFP:

Police Promotional Assessment

Through this RFP, the City of Durham is soliciting Proposals from qualified consulting firms with experience in conducting Police Promotional Assessments.

Vendor/Contractors are not required to return this form.

Giancarlo Ladaga	<i>Project Manager Name</i>
Police Personnel Manager	<i>Project Manager Title</i>
Police	<i>Project Manager Department</i>
Training/Personnel Services	<i>Project Manager Division</i>
919-560-4402 x29155	<i>Project Manager Telephone Number</i>
Giancarlo.Ladaga@durhamnc.gov	<i>Project Manager E-mail</i>

If you have concerns about this RFP that you believe are not being addressed by the Project Manager, please contact Jesse F. Burwell, Jr., Civilian Assistant Chief at jesse.burwell@durhamnc.gov or 919-560-4322 x29205.

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Section One

Introduction and Instructions

1.01

How to Submit a Proposal, Return Mailing Address, Contact Person, Contact Information, and Deadline for Receipt of Proposals

Each vendor/bidder must submit **six (6)** copies of his/her Proposal. Each Proposal must be delivered in a sealed envelope. The envelope must be addressed for delivery to the Project Manager, as indicated below:

**Giancarlo Ladaga, Police Personnel Manager
Durham Police Department
Personnel Services Division
505 West Chapel Hill Street
Durham, NC 27701**

Project Name: Police Promotional Assessment

Proposals must be received no later than 10:00 A.M. EDT on November 6, 2014.

Delays caused by any delivery service, including the U.S. Postal Service, shall not be grounds for any extension of the Proposal due date and/or time. Proposals should not be made orally or delivered by email or fax. A vendor/bidder's failure to submit a Proposal before the deadline shall cause the Proposal to be disqualified. Late Proposals or amendments shall not be opened or accepted for evaluation.

On October 16, 2014 at 11:00 A.M. EDT, a Pre-Proposal Meeting will be held in Durham Police Department Headquarters Community Room, at 505 West Chapel Hill Street, Durham, North Carolina 27701.

On November 6, 2014 at 10:00 A.M. EDT, the sealed Proposals shall be opened publicly at Durham Police Headquarters in the Community Room on the first floor at 505 West Chapel Hill Street, Durham, NC 27701.

Questions regarding this RFP may be submitted by e-mail only to the contact listed below:

PROJECT MANAGER:

Giancarlo Ladaga, Police Personnel Manager

Email: Giancarlo.Ladaga@durhamnc.gov

Telephone: **919-560-4402 x29155**

No other City official or employee is empowered to speak for the City with respect to this RFP except the Chief of Police, the Civilian Assistant Chief, or their designees. Vendor/Bidders who seek to obtain information, clarification, or interpretation from another City official or employee, are advised that such material is used at the Vendor/Contractor's own risk, and that the City shall not be bound by any such representations.

1.02

Contract Term and Work Schedule

The Contract term and Work Schedule set out herein represent the City's best estimate of the schedule that shall be followed. If a component of this schedule is delayed, such as the opening date, the rest of the schedule shall be shifted by the same number of days, with the exception of City Manager review and Council activities regarding the proposed Contract...

The length of the Contract shall be from the date of award, approximately December 19, 2014, until completion, approximately September 7, 2015. The approximate Contract Work Schedule is as follows:

- [a] Issue (Advertised Date): **October 6, 2014**
- [b] Pre-Proposal Conference on **October 16, 2014 at 11:00 A.M.** in the Police Department Community Room
- [c] Receive Proposals: **November 6, 2014 by 10:00 A.M.** Sealed Proposals shall be opened publicly at 2:00 P.M. in the Police Department Community Room.
- [d] Proposal Evaluation Committee makes recommendation for selection by **November 20, 2014**
- [e] Contract signed by Vendor/Contractor: **November 26, 2014** (Insurance Certificate and Durham Business License shall be required at that time).
- [f] City Council approves Contract: **December 19, 2014**
- [g] City issues Contract/Contract starts **December 19, 2014**
- [h] Phase I Vendor/Contractor Work period completed by **January 19, 2015**
- [i] Phase II Vendor/Contractor Work period completed by **July 13, 2015**
- [j] Phase III Vendor/Contractor Work period completed by **August 18, 2015**

[k] Phase IV Vendor/Contractor Work period completed by **September 7, 2015**

1.03

Purpose of the Request for Proposal (RFP)

The City of Durham Police Department is soliciting Proposals from qualified consulting firms with experience in Police Promotional Assessments, to conduct promotional assessments processes for the ranks of Corporal, Sergeant, Lieutenant, and Captain utilizing the current (2012) job task analyses which the City owns, and other materials. The selected Vendor/Contractor shall be approved by the City of Durham; and as such shall be authorized to Contract with the City of Durham to design, coordinate and implement the assessment process, and to provide a final ranking and feedback for each promotional Vendor/Contractor. All selection measures must be job related, non-discriminatory, and in accordance with the standards published by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).

1.04

Budget

The City of Durham Police Department estimates a budget of between seventy-five thousand dollars (\$75,000) and one hundred sixty thousand dollars (\$160,000) for completion of this project. Proposals priced at more than one hundred sixty thousand dollars (\$160,000) shall be considered non-responsive. Proposal add-ons shall not be permitted.

1.05

Location of Work

The location where the Work is to be performed, completed and managed is the Durham Police Department Headquarters at 505 West Chapel Hill Street, Durham, NC 27701. The Vendor/Contractor shall be responsible for locating and securing an off-site venue for conducting promotional assessments at the Vendor/Contractor's expense.

The City shall provide workspace for the Vendor/Contractor for onsite activities and services. The Vendor/Contractor must provide its own workspace for other activities (see Phase Three: Assessment pg. 29).

The Vendor/Contractor must include in the price Proposal all transportation, lodging, per diem, and workplace costs needed to pay for appropriate personnel to make all needed trip(s) to the Police Department (include full 7.5 hour Working days) and to locations designated for the promotional assessments. Travel to other locations shall not be required.

1.06

Notice Pursuant to the Americans with Disabilities Act (ADA)

The City of Durham does not discriminate against qualified persons with disabilities on the basis of disability in the City's services, programs, or activities. The City shall generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities, so that they can participate equally in the City's programs, services, and activities. The City shall make all reasonable modifications to policies and programs to ensure that persons with disabilities have equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid, reasonable accommodation, or service for effective communications or a modification of policies or procedures to participate in the City programs, services, or activities, should contact Ms. Stacey Poston, City ADA Coordinator, voice 919-560-4197, fax 560-4196, TTY 919-560-1200, or Stacey.Poston@durhamnc.gov as soon as possible, but **no later than 48 hours** before the scheduled event.

1.07

Required Review

Vendor/Contractors should carefully review this Request for Proposals for defects and questionable or objectionable matter. Comments concerning defects and objectionable material must be made in writing via e-mail, and received by the Project Manager at least ten days before the Proposal opening. This shall allow time for issuance of any necessary amendments. It shall also help prevent the opening of a defective solicitation and exposure of the Vendor/Bidder's Proposals upon which award could not be made. Protests based on any omission or error, or on the content of the solicitation, shall be disallowed if these faults have not been brought to the attention of the Project Manager, in writing via e-mail, at least ten days before the time set for opening.

1.08

Questions Received before Opening of Proposals

All questions must be in writing via e-mail addressed to the Durham Police Department, Personnel Services Division, in care of Giancarlo Ladaga, the Project Manager. Two types of questions generally arise. One is substantive and asks for clarification; and can be answered by directing the questioner to a specific Section of the RFP. Other questions might be more complex and could require a written amendment to the RFP. The Police Department contact person, Giancarlo Ladaga, shall make that decision.

1.09

Amendments

If an RFP amendment is issued, it shall be posted on the City's website, and sent via e-mail to any Vendor/Contractors who attended the pre-Proposal conference.

1.10

Alternate Proposals

Each Vendor/Contractor may only submit one Proposal for evaluation. Alternate Proposals (Proposals that offer something different from what is being requested), except those specifically requested as part of an amended Request for Proposals, shall be rejected.

1.11

Discretion of the City.

[a] The City of Durham reserves the right to reject any and/or all Proposals.

[b] Notwithstanding anything to the contrary in this document or in any Addenda to it, unless the contrary provision refers specifically to this provision, the City reserves the right:

(1) to negotiate changes of any nature with any Vendor/Contractor, with respect to any term, condition, or provision in this document and/or in any Proposals, whether or not something is stated to be mandatory, and whether or not it is said that a Proposal shall be rejected if certain information or documentation is not submitted with it; and

(2) to enter into an agreement for some or all of the Work with one or more persons, firms, or corporations that do not submit Proposals. For example, all deadlines are for the administrative convenience or needs of the City, and may be waived by the City in its discretion. This subparagraph [b] applies to the entire RFP, including the SDBE portions.

[c] Where the City asks or tells Vendor/Contractors to do stated things, such as that a Proposal should follow a stated format or that the Vendor/Contractor should do stated things in seeking the Contract, the City may reject a Proposal because it does not comply with those requests, so the Vendor/Contractor is adding to its risk of rejection by non-compliance. Still, the City may, in its discretion, waive non-compliance. This Subsection [c] does not limit any provision of Subsections [a] and [b], above.

[d] Once a Contract is signed, the parties to the Contract may enforce it according to its terms, as allowed by applicable law.

1.12

Vendor/Contractor to Bear Expense, No Claims against City

No Vendor/Contractor shall have any claims or rights against the City arising out of participation by a Vendor/Contractor in the Proposal process. No Vendor/Contractor shall have any claims or rights against the City for the City's failure to award a Contract to it, or for awarding a Contract to another person, firm, or corporation, regardless whether the other person, firm, or corporation participated in the RFP process or did not submit a Proposal that complied with this RFP. A notice of award shall not constitute acceptance by the City; the City's only method of acceptance is the City's execution of a formal Contract in accordance with law.

1.13

Trade Secrets and Confidentiality

All Proposals and other material submitted become the property of the City of Durham. All Proposal information, including detailed price and cost information, shall be held in confidence during the evaluation process and before the time a Notice of Intent to Award is issued. Thereafter, Proposals shall become disclosable as public record.

As a general rule, all submissions to the City are available to any member of the public. However, if materials submitted to the City contain matters that are trade secrets, proprietary, or otherwise confidential, as provided in this Section, the City shall take reasonable steps to keep trade secrets confidential.

Definitions, as used in this Section (Trade Secrets and Confidentiality):

The term, "**Vendor/Contractor**," includes the time when Vendor is the Vendor/Contractor (that is, after it is a party to a Contract with the City).

The term, "**trade secret**," means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

[a] Derives independent actual or potential commercial value from being not generally known or readily ascertainable through independent development or reverse engineering by persons who could obtain economic value from its disclosure or use; and

[b] Is the subject of reasonable efforts under the circumstances to maintain its secrecy? The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

The term, “record,” means all documents, papers, letters, maps, books, photographs, films, sound, audiovisual recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, received by the City of Durham in connection with the Vendor/Contractor’s Proposal.

[a] Designation of Confidential Records. To the extent that the Vendor/Contractor wishes to maintain the confidentiality of trade secrets contained in materials provided to the City, the Vendor/Contractor shall prominently designate the material with the words, “trade secrets,” at the time of its initial disclosure to the City. The Vendor/Contractor shall not designate as trade secrets any material provided to the City unless the Vendor/Contractor has a reasonable and good faith belief that the material contains a trade secret. When requested by the City, the Vendor/Contractor shall promptly disclose to the City the Vendor/Contractor’s reasoning for designating material as trade secrets; the Vendor/Contractor might need to label parts of that reasoning as trade secrets. In providing materials to the City, the Vendor/Contractor shall make reasonable efforts to separate those materials designated as trade secrets from those not so designated, both to facilitate the City’s use of the materials and to minimize the opportunity for accidental disclosure. For instance, if only a sentence or paragraph on a page is a trade secret, the page must be marked clearly to communicate that distinction. To avoid mistake or confusion, it is generally best to have only trade secret information on a page and nothing else on that page.

To the extent authorized by applicable state and federal law, the City shall maintain the confidentiality of records designated “trade secrets” in accordance with this Section. Whenever the Vendor/Contractor ceases to have a good faith belief that a particular record contains a trade secret, it shall promptly notify the City.

[b] Request by Public for Access to Record. When any person asks the City to provide access to a record designated as a trade secret in accordance with Subsection [a] above, the City may

- (1) decline the request for access;
- (2) notify the Vendor/Contractor of the request and that the City has provided to the requestor, or intends to provide, access to the record because applicable law requires that the access be granted; or
- (3) notify the Vendor/Contractor of the request and that the City intends to deny the request.

Before declining the request, the City might require the Vendor/Contractor to give further assurances so that the City can be certain that the Vendor/Contractor shall comply with Subsection (c), below.

[c] Defense of City. If the City declines the request for access to a record designated as, or containing, trade secrets pursuant to Subsection [a], above, then, in consideration of the promises in [b], above, and for considering the Vendor/Contractor's Proposal, the Vendor/Contractor agrees that it shall defend, indemnify, and save harmless Indemnitees from and against all charges that arise in any manner from, in connection with, or out of the City's nondisclosure of the records. In providing that defense, the Vendor/Contractor shall at its sole expense defend Indemnitees with legal counsel. The legal counsel shall be limited to attorneys reasonably acceptable to the Durham City Attorney.

Definitions. As used in this Subsection [c], "**charges**" means claims, judgments, costs, damages, losses, demands, liabilities, fines, penalties, settlements, expenses, attorneys' fees, and interest. "**Indemnitees**" means the City, and officers, officials, independent Vendor/Contractors, agents, and employees, of the City. "Indemnitees" does not include the Vendor/Contractor. The City may require the Vendor/Contractor to provide proof of the Vendor/Contractor's ability to pay the amounts that might reasonably be expected to become monetary obligations of the Vendor/Contractor pursuant to this Section. If the Vendor/Contractor fails to provide that proof timely, the City shall not be required to keep confidential the records whose non-disclosure gives rise to the potential monetary obligation. Nothing in this agreement shall require the City to require any person (including the City itself) to be placed in substantial risk of imprisonment, of being found by a court to be in contempt, or of being in violation of a court order. This Subsection (c) is separate from, and is to be construed separately from, any other indemnification and warranty provisions in the Contract between the City and the Vendor/Contractor.

1.14

Subvendor/Contractors

Subvendor/Contractors may be used to perform Work under this Contract. If a Vendor/Contractor intends to use Subvendor/Contractors, the Vendor/Contractor must identify in the Proposal the names of the Subvendor/Contractor[s] and the portions of the Work the Subvendor/Contractor[s] shall perform.

If a Proposal with Subvendor/Contractors is selected, the Vendor/Contractor must provide the following information concerning each prospective Subvendor/Contractor within five working days from the date of the City's request:

- [a] complete name of the Subvendor/Contractor;
- [b] complete address of the Subvendor/Contractor;
- [c] type of Work the Subvendor/Contractor shall be performing;
- [d] percentage of Work the Subvendor/Contractor shall be providing;

[e] evidence, as set out in the relevant Section of this RFP, that the Subvendor/Contractor holds a valid City of Durham Privilege License,

[f] a written statement, signed by each proposed Subvendor/Contractor, which clearly verifies that the Subvendor/Contractor is committed to render the services required by the Contract.

A Vendor/Contractor's failure to provide this information within the time set might cause the City to consider the Vendor/Contractor's Proposal to be non-responsive and reject the Proposal.

The substitution of one Subvendor/Contractor for another may be made only at the discretion of the Project Manager and with prior written approval from the Project Manager.

1.15

Joint Ventures

Joint ventures shall not be allowed.

1.16

Vendor/Contractor's Certification

By signature on its Proposals, Vendor/Contractor certifies that it complies with:

- [a] the laws of the State of North Carolina; and
- [b] the applicable portion of the Federal Civil Rights Act of 1964; and
- [c] the Equal Employment Opportunity Act and the regulations issued thereunder by the United States federal government; and
- [d] the relevant law enforcement accreditation standards published by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); and
- [e] all terms and conditions set out in this RFP; and
- [f] a condition that the Proposal submitted was independently arrived at, without collusion, under penalty of perjury;
- [g] a condition that the Vendor/Contractor's offer shall remain open and valid for at least 90 days;

[h] a condition that all programs, services, and activities provided to the general public under the resulting Contract are in conformance with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any Vendor/Contractor fails to comply with Sections [a] through [h] of this paragraph, the City of Durham reserves the right to disregard the Proposal, terminate the Contract, or consider the Vendor/Contractor in default.

1.17

Conflict of Interest

Each Proposal shall include a statement indicating whether the firm or any persons working on the Contract has a possible conflict of interest (e.g., are employed by the City of Durham); and, if so, the specific nature of that conflict. The Durham City Council reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be developed by the Vendor/Contractor. The City Council's determination regarding any questions of conflict of interest shall be final.

1.18

Right to Inspect Place of Business

At reasonable times, the City of Durham may inspect those areas of the Vendor/Contractor's place of business that are related to the performance of a Contract. If the City makes such an inspection, the Vendor/Contractor must provide reasonable assistance.

1.19

Solicitation/Request for Proposals Advertising

This Request for Proposals is available on the City of Durham's internet site at:
<http://durhamnc.gov/ich/as/fin/Pages/bids.aspx>.

1.20

News Releases

News releases related to this RFP shall not be made without prior approval of the Police Public Information Officer and City Public Affairs Division; and then only in coordination with the Project Manager.

1.21

Assignment

The Vendor/Contractor may not transfer or assign any portion of the Contract without prior written approval from the Department Director, Police Chief Jose L. Lopez, Sr.

1.22

Disputes

Any dispute arising out of this agreement shall be resolved under the laws of North Carolina. The exclusive forum and venue for all actions arising out of any City Contract shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to federal court.

1.23

Severability

If any provision of the Contract or agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

1.24

Federal Requirements

The Vendor/Contractor must identify all known federal requirements that apply to the Proposal, the evaluation, and the Contract.

1.25

Equal Business Opportunity Ordinance

It is the policy of the City of Durham to provide equal opportunities for City Contracting to small firms owned by socially and economically disadvantaged persons doing business in the City's Contracting Marketplace. It is further the policy of the City of Durham to prohibit discrimination against any person or firm in pursuit of these opportunities; to conduct its Contracting activities so as to prevent such discrimination; to correct present effects of past discrimination; and to resolve complaints of discrimination. This policy applies to all professional services categories.

While there are no Small Disadvantaged Business Enterprise [SDBE] participation goals for this project, in accordance with City Ordinance, all Vendor/Contractors are required to provide

information requested in the “SDBE Professional Services Forms” package, which has been included with this Request for Proposals, at Section 8. Proposals that do not contain the appropriate, completed “Professional Services Forms” shall be deemed non-responsive and ineligible for consideration. The “Declaration of Performance,” “Participation Documentation,” Managerial Profile,” “Equal Opportunity Statement,” and the “Employee Breakdown” documents are required of all Vendor/Contractors. In lieu of “Employee Breakdown,” Vendor/Contractors may submit a copy of the current EEO-1 form (corporate basis). The “Letter of Intent to Perform as a Sub-consultant” should be used if appropriate. Other forms in the package should be used as needed.

The Department of Equal Opportunity/Equity Assurance is responsible for the Equal Business Opportunity Program. All questions about “SDBE Professional Services Forms” should be referred to Deborah Giles or other Department staff at (919) 560- 4180.

Note: In lieu of Small Disadvantaged Business Enterprises [SDBEs] listed in its SDBE System, the City of Durham shall accept women and minority firms certified by N.C. DOT, U.S. SBA and RDU as meeting its SDBE goal requirements, provided that the Vendor/Contractor submits evidence that the firm is currently certified by one of the stated entities at the time of bid/Proposal. Failure to provide evidence of certification may disqualify the firm’s participation for the purpose of meeting SDBE goals.

SECTION TWO

STANDARD PROPOSAL INFORMATION

2.01 Authorized Signature

A person authorized to bind the Vendor/Contractor to the provisions of the RFP must sign all Proposals. Proposals must remain open and valid for at least ninety (90) days from the opening date.

2.02

Pre-Proposal Conference

A Pre-Proposal Conference shall be held at 11:00 A.M. EDT on October 16, 2014, in the Police Department Community Room on the first floor of the Durham Police Department Headquarters, at 505 West Chapel Hill Street, Durham, NC 27701. The purpose of the conference is to discuss the Work to be performed with the prospective Vendor/Contractors, and to allow them to ask questions concerning the RFP. Questions and answers shall be transcribed and sent to prospective Vendor/Contractors as soon as possible after the meeting.

Any Vendor/Contractor with a disability needing accommodation should contact the Project Manager before the date set for the Pre-Proposal Conference, so that reasonable accommodation can be made.

2.03

Public Proposal Opening

On **November 6, 2014, at 10:00 A.M. EDT, the sealed Proposals shall be opened publicly** in the Community Room on the first floor of the Durham Police Department Headquarters at 505 West Chapel Hill Street, Durham, NC 27701. Proposals received after that time shall not be accepted.

2.04

Site Inspection

The City may conduct on-site visits to evaluate the Vendor/Contractor's capacity to perform the Contract. Vendor/Contractor must agree, at risk of being found non-responsive and having its Proposal rejected, to provide the City reasonable access to relevant portions of their Work sites. Individuals designated by the City of Durham Purchasing Manager, at the City's expense, shall make site inspection.

2.05

Amendments to Proposals

Amendments to or withdrawals of Proposals shall only be allowed if acceptable requests are received before the deadline set for receipt of Proposals. No amendments or withdrawals shall be accepted after the deadline.

2.06

Supplemental Terms and Conditions

Proposals including supplemental terms and conditions shall be accepted, but supplemental conditions that conflict with those contained in this RFP, or that diminish the City's rights under any Contract resulting from the RFP, shall be considered null and void. The City is not responsible for identifying conflicting supplemental terms and conditions before issuing a Contract award. After award of Contract:

[a] if conflict arises between a supplemental term or condition included in the Proposal and a term or condition of the RFP, the term or condition of the RFP shall prevail; and

[b] if the City's rights would be diminished because of the application of a

supplemental term or condition included in the Proposal, the supplemental term or condition shall be considered null and void.

2.07

Discussions with Vendor/Contractors

The City may conduct discussions with Vendor/Contractors for the purpose of clarification. The purpose of these discussions shall be to ensure full understanding of the requirements of the RFP and Proposal. Discussions shall be limited to specific Sections of the RFP identified by the Project Manager. The Project Manager shall only hold discussions with Vendor/Contractors who have submitted Proposals deemed reasonably susceptible to award. Discussions, if held, shall be after initial evaluation of Proposals by the Proposal Evaluation Committee. If modifications are made because of these discussions, they shall be put in writing. Following discussions, the Project Manager may set a time for best and final Proposal submissions from those Vendor/Contractors with whom discussions were held. Proposals might be reevaluated after receipt of best and final Proposal submissions. Re-evaluation shall be limited to the specific Sections of the RFP that the Project Manager has opened to discussion. Any Vendor/Contractor with a disability needing accommodation should contact the Project Manager before the date set for discussions so that reasonable accommodation can be made.

2.08

Prior Experience

No specific minima have been set for this RFP.

2.09

Evaluation of Proposals

The City shall task a Proposal Evaluation Committee to review and to rate all Proposals. The evaluation shall be based solely on the evaluation factors set out in Section 7.0 of this RFP.

2.10

Vendor Tax ID

A valid Federal Tax ID certificate must be submitted to the City with the Proposal, or within five days after the City's request.

2.11

City of Durham Privilege License and Other Required Licenses

All organizations doing business with the City of Durham are required to comply with all state, local and federal licensing requirements. This requirement includes obtaining a City of Durham Privilege License. Vendor/Contractors selected through the RFP process shall be required to demonstrate compliance with all licensing requirements. All responding Vendor/Contractors that are not currently licensed must provide proof of application for licensure, and must obtain all necessary licenses before entering into a Contractual agreement with the City of Durham. The selected Vendor/Contractor must provide to the City a Privilege License no later than October 31, 2014. To obtain a Privilege License, please call (919) 560-4700 or see: <http://durhamnc.gov/ich/as/fin/Pages/Business-Privilege-License.aspx>.

2.12

Contract Negotiations

After completion of Proposal evaluation, including any discussions held with Vendor/Contractors during the evaluation process, the City may elect to initiate Contract negotiations. The option of whether to initiate Contract negotiations rests solely with the City. If the City elects to initiate Contract negotiations, such negotiations cannot involve changes in the City's requirements or in the Vendor/Contractor's Proposal, which would, by their nature, affect the criteria on which the Vendor/Contractor was selected and the competition previously conducted. If Contract negotiations are commenced, they shall be held at a location to be determined in the City of Durham, North Carolina. The Vendor/Contractor shall be responsible for all Contract-related negotiation expenses, including, but not limited to, travel and per diem expenses of the Vendor/Contractor and its representatives.

2.13

Failure to Negotiate

If the selected Vendor/Contractor:

- [a] fails to provide the information required to begin negotiations timely; or
- [b] fails to negotiate in good faith; or
- [c] indicates that it cannot perform Work under the Contract within the budgeted funds available for the project; or
- [d] the Vendor/Contractor and the City, after a good faith effort, simply cannot come to terms, the City may terminate negotiations with the Vendor/Contractor initially selected and commence negotiations with the next highest ranked Vendor/Contractor.

SECTION THREE

STANDARD CONTRACT INFORMATION

3.01

Contract Type

The selected Vendor/Contractor shall be required to sign a City of Durham-generated Contract. A sample Contract is located at Section 8, below. The actual Contract could differ from the sample Contract.

3.02

Contract Approval

This RFP does not, by itself, obligate the City. The City's obligation shall commence when the Durham City Council approves the Contract. Upon written notice to the Vendor/Contractor, the City might set a different starting date for the Contract. The City shall not be responsible for any Work done by the Vendor/Contractor, even Work done in good faith, if it occurs before the Contract start date set by the City.

3.03

Proposal as a Part of the Contract

Part or all of this RFP and the successful Proposal could be incorporated with the Contract.

3.04

Additional Terms and Conditions

The City reserves the right to add terms and conditions during Contract negotiations. Such terms and conditions shall be within the scope of the RFP, and shall not affect Proposal evaluations.

3.05

City of Durham Insurance Requirements

Vendor/Contractor shall purchase and maintain insurance coverage for not less than the following:

Commercial General Liability, covering:

- Premises/operations

- Products/completed operations (two years minimum, from project completion)
- Broad form property damage
- Contractual liability
- Independent Vendor/Contractors [Subvendor/Contractors], if any are used in the performance of this Contract
- The City of Durham must be named additional insured, **and an original of the endorsement to effect the coverage must be attached to the Certificate of Insurance (if by blanket endorsement, then agent may so indicate in the GL Section of the certificate, in lieu of an original endorsement).**
- Combined single limit not less than \$2,000,000 per occurrence, with an annual aggregate of not less than \$4,000,000.

Commercial Auto Liability, covering:

- Symbol 1, all vehicles
- Combined single limit of \$2,000,000
- The City of Durham must be named additional insured.

Professional Liability, covering:

- Covering claims arising out of professional advisement/consultation services performed pursuant to the Contract awarded
- Self-insured retentions/deductibles in excess of \$25,000 must be approved by the City Finance Director
- Combined single limit not less than \$1,000,000 per occurrence; if coverage is only available on a claims-made basis, then additional coverage requirements could apply, subject to review of City Finance Director.

Workers' Compensation Insurance, covering:

- Statutory benefits;
- Covering employees; covering owners partners, officers, and relatives (who work on the Contract). Coverage of these persons must be stated on the Certificate of Insurance.
- Employers' liability, \$1,000,000
- Waiver of subrogation in favor of the City of Durham

Insurance shall be provided by:

- Companies authorized to do business in the State of North Carolina
- Companies with Best rating of A-, VII, or better.

Delays should be expected in obtaining the required insurance. Vendor/Contractors should provide the requirements and Contract schedule to their insurance providers as soon as possible while preparing the Proposal. **Proof of insurance shall be expected at the time the Contract is signed, on approximately November 26, 2014.**

3.06

Bid Deposit, Performance Bond, and Surety Deposit

Bid Bond

A Bid Deposit shall not be required.

Performance Bond

A Performance Bond shall not be required.

Surety Deposit

A Surety Deposit shall not be required.

3.07

Proposed Payment Procedures

The City shall make Contract payments based on a negotiated payment schedule. Each billing must consist of an invoice and progress-to-date report. No payment shall be made until the Project Manager has approved the progress report and invoice.

3.08

Contract Payment

No payment shall be made until the Contract is approved by the Durham City Council and has been fully executed by all parties. Under no conditions shall the City be liable for the payment of any interest charges associated with the cost of the Contract.

3.09

Informal Debriefing

When the Contract is completed, an informal debriefing may be held at the discretion of the Project Manager. If the briefing is held, its scope shall be limited to the Work performed by the Vendor/Contractor.

3.10

Termination for Default

If the Project Manager determines that the Vendor/Contractor has refused to perform the Work, or has failed to perform the Work with such diligence as to ensure its timely and accurate completion, the City may, by providing written notice to the Vendor/Contractor, terminate the Vendor/Contractor's right to proceed with part or all of the remaining Work.

3.11

Contract Changes and Unanticipated Amendments

During the course of this Contract, the Vendor/Contractor could be required to perform additional Work. That Work shall be within the general scope of the initial Contract. When additional Work is required, the Project Manager shall provide the Vendor/Contractor a written description of the additional Work, and request that the Vendor/Contractor to submit a firm time schedule for accomplishing the additional Work and a firm price for the additional Work. Cost and pricing data must be provided to justify the cost of any such changes or amendments.

The Vendor/Contractor shall not commence additional Work until the Project Manager has secured any City approvals necessary for the amendment and has thereafter issued a written Contract amendment.

3.12

Contract Invalidation

If any provision of this Contract is found to be invalid, such invalidation shall not be construed to invalidate the entire Contract.

3.13

Non-Discrimination Clause

The City of Durham opposes discrimination on the basis of race and gender, and urges all of its Vendor/Contractors to provide fair opportunities for minorities and women to participate in the Vendor/Contractor's workforce, and as Subvendor/Contractors and Vendors under City Contracts.

3.14

EEO Provisions

During the performance of this Contract, the Vendor/Contractor agrees to the following:

[a] The Vendor/Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, gender, national origin, political affiliation or belief, age, or disability. The Vendor/Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to race, color, religion, gender, national origin, political affiliation or belief, age, or disability. Such action shall include, but not be limited to, the following: employment, upgrading or promotion, demotion, transfer, recruitment or advertising, layoff or termination,

rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Vendor/Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these provisions.

[b] The Vendor/Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Vendor/Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, gender, national origin, political affiliation or belief, age, or disability.

[c] The Vendor/Contractor shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or Memorandum of Understanding.

[d] In the event of the Vendor/Contractor's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend this Contract, in whole or in part, and the City may declare the Vendor/Contractor ineligible for future City Contracts.

[e] Unless exempted by the City Council of the City of Durham, the Vendor/Contractor shall include these EEO provisions in every purchase order for goods to be used in performing this Contract and in every Subcontract related to this Contract so that these EEO provisions shall be binding upon such Subcontractors and Vendors.

SECTION FOUR

BACKGROUND INFORMATION: DURHAM POLICE DEPARTMENT

4.01

Background Information

The police structure is built upon ranks, each of which is assigned a distinct role and task set within the Police Department. Because of the distinctions among Captains, Lieutenants, Sergeants and Corporals, the knowledge, skills and abilities required for each position differs. Job Task Analysis is a technical process used to identify and determine, in detail, the particular job duties and requirements assigned to classifications or work assignments within an organization. A key result of the task analysis process is that the knowledge, skills, and abilities that required for each rank to perform each position successfully have been determined.

Regularly recurring job task analyses are needed to incorporate changes in technology, equipment, Police organization and structure, legislation, regulations, general orders, procedures, responsibilities within ranks and assignments, and other factors. **A complete job task analysis was conducted in 2012, and covered each sworn rank and assignment.**

Therefore, the City has determined that no job task analyses be conducted for purposes of this RFP and resulting Contract.

The Durham Police Department is accredited through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); and must meet accreditation standards regarding job task analyses and police promotional assessments. CALEA establishes standards for selection that require all elements used to evaluate applicants for promotion be validated as being job-related and nondiscriminatory.

The Durham Police Department, Personnel Services Division, intends to conduct a promotional process for each of the ranks of Corporal, Sergeant, Lieutenant, and Captain [4 processes]. Historically, the Durham Police Department has alternated between hiring outside consultants and conducting internal police promotional processes.

The Department seeks a professional consultant to design, implement and present to the Chief of Police the results of the Corporal, Sergeant, Lieutenant, and Captains promotional assessments. The current [2012] job task analyses must be incorporated with the promotional assessment. The goal of the promotional process is to identify and select employees with the knowledge, skills and abilities to lead the Durham Police Department during times of increasing complexity and greater public scrutiny.

Frequently, individual candidates for promotion perform better in some areas than in others. The Durham Police Department prefers to review total candidate performance in hiring and in promotion. Therefore, no single element of the promotional assessment shall serve as an eliminator. All candidates for promotion shall be evaluated on all elements of the assessment process.

Written tests are required for the ranks of Corporal and Sergeant. Increasingly complex promotional assessment exercises shall be required for the ranks of Corporal, Sergeant, Lieutenant and Captain.

Previous promotional assessments have included a portfolio compiled by each candidate for promotion, comprised of the candidate's work history and accomplishments. In some cases, the candidate was required to make a presentation of the portfolio to assessors; and in other cases, only the written portfolio was required. When surveyed after assessment, candidates for promotion were evenly divided regarding the presentation aspect of the portfolio requirement: some supported the idea; others did not. Although the Department would consider a different measure of applicant work history, the measure should be equivalent to, and reflect the skills needed to compile and present, the portfolio.

The current reading list has been in effect since 2007. As part of the promotion process, the list shall be reviewed and amended as determined by the Chief of Police, in consultation with the Project Manager and/or designated Police Department administrators.

The reading list shall be chosen by agreement among the Vendor/Contractor, Police Department Executive Staff, and the Project Manager, from among the following works [please note the editions currently used]:

(1) *Crucial Conversations: Tools for Talking When the Stakes Are High.*

By: Kerry Patterson, Joseph Grenny, Rob McMillian, Al Switzler, Stephen Covey. Chapters 1, 3, 6, 7, 8, 9

(2) *The 7 Habits of Highly Effective People: Powerful Lessons in Personal Change.*

By: Stephen Covey. Overview and Habits 1-5.

(3) *Supervision of Police Personnel, 6th Edition.*

By: Nathan Iannone and Marvin Iannone. Chapters 2, 3, 6, 8, 9, 10

(4) *Arrest, Search, and Investigation in North Carolina, 3rd Edition,*

including 2006 supplement. By: Robert Farb. Chapters 1-5

(5) *Broken Windows: The Police and Neighborhood Safety.*

By: James Wilson and George Kelling. Entire 20-page article, available online at :

<http://www.theatlantic.com/doc/198203/broken-windows>.

(6) *Durham Police Department—General Orders* (subject to revision;

Vendor/Contractor will be informed of any changes during the Project period. General Orders numbers: 1014, 1032, 1046 (including Attachment #1), 2002-2003, 2015-2017, 3005, 4001, 4003-4004, 4008, 4018-4020, 4022, 4036-4037, 4041, 4044, 4046, 4049, 4051, 4056, 4058, 4064, 4067, 4069-4071, 4074-4075, 4077 (“Show-ups Identification Procedures” Section only)

(7) *City of Durham Policies* (subject to revision; Vendor/Contractors will be

informed of any changes during the Project period.). City Policy numbers: HRM-322 (Discipline and Grievance), PER-321, R-1 (Complaint Mediation), PER-403, R-6 (Overtime Pay and Compensatory Time), PER-411, R-4 (FLSA Compliance), PER-607, R-2 (FMLA), PER-708, R-1 (Sexual Harassment), PER-714 (including link to Substance Abuse Policy Manual).

Successful applicants from this promotional assessment shall be ranked on a register that shall remain in place for a time certain, usually one (1) to two (2) years.

SECTION FIVE

SCOPE OF WORK

5.01

Scope of Work

Promotional Assessment

Four separate, increasingly complex promotional assessments shall be required for this portion of the RFP: one for the rank of Corporal; one for the rank of Sergeant; one for the rank of Lieutenant; and one for the rank of Captain. The promotional assessment process shall be progressive in nature, in that the lowest rank shall have the fewest exercises and the highest-ranking positions shall have the most exercises, and the most difficult ones.

No single element of the selection process shall serve as an eliminator. All candidates for promotion shall be evaluated on all elements of the assessment process.

The following elements are suggested for the promotional assessment for each rank:

Corporal's process: (1) Written examination; (2) at least one exercise, such as oral interview by a panel of assessors, and/or a situation-based written exercise derived from the Durham Police Department's General Orders, policies or practices; and (3) some method to incorporate the each candidate for promotion's work history.

Sergeant's process: (1) Written examination; (2) at least two exercises, such as oral interview by a panel of assessors; supervisory role-play exercise; in-basket exercise requiring appropriate action and prioritization of such topics as memo preparation, coaching and counseling, report review, FLSA logs, and other such exercises; and (3) some method to incorporate each candidate for promotion's work history.

Lieutenant's process: (1) At least three exercises, such as oral interview; Citizens' group meeting coupled with a presentation; written exercise requiring a plan of action and involvement of other elements of the community and Department; a supervisory role-play scenario and (2) some method to incorporate the candidate for promotion's work history.

Captain's process: (1) At least four exercises, such as oral interview; written exercise requiring a plan of action and involvement of other elements of the community and Department; a supervisory role-play scenario; a job simulation exercise; a case study exercise; and (2) some method to incorporate the candidate for promotion's work history.

USERRA Compliance: The Uniformed Services Employment and Reemployment Rights Act of 1994 was signed into law to protect the civilian employment of non-full-time military service members in the United States called to active duty. The City of Durham does not discriminate against qualified service members called to active duty from participating in promotional processes. The City shall, upon request, allow qualified members on active duty to perform an alternate test, designed by the Vendor/Contractor, in order to participate in the promotional assessment processes.

The promotional assessment processes, being multi-faceted and complex shall be divided into four (4) phases to facilitate the effective use of time.

Phase One: Introduction and Familiarization

- [a] Meet with the Chief of Police, Police Executive Staff, and Project Manager.
- [b] Compose an introductory letter to potential applicants.
- [c] Review materials provided by the Department in order to become familiar with Durham Police Department.
- [d] Conduct focus groups with Durham Police subject-matter experts.
- [e] Review current [2012] job task analyses for sworn and non-sworn police positions, and in particular, those jobs involved with the promotion process.
- [f] Review reading list¹ used for the most recent promotion for each rank; and modify or upgrade, as agreed upon between the Vendor/Contractor and the Chief of Police, in consultation with the Project Manager and/or designated Police Department administrators and Executive Staff.
- [g] Choose the reading list; and publish it to prospective candidates for promotion to the ranks of Corporal, Sergeant, Lieutenant, and Captain.

Phase Two: Promotional Assessment Design and Promotion Candidate Orientation

- [a] Design and develop two written examination, one for the rank of Corporal; and one for the rank of Sergeant.
- [b] Design and develop four separate promotional assessment exercises, one for the rank of Corporal; one for the rank of Sergeant; one for the rank of Lieutenant; and one for the rank of Captain.

¹ See §4.01, "Background Information," of this RFP.

[c] Recommend an assessment component to include some element of applicant work history with the promotional assessment. Applicant work history is an important factor of the process; and this element of the process could take up a substantial amount of time in both preparation and administration. The Vendor/Contractor must be aware of, and plan for, the time needed to design and implement this component of the process. In addition, the Vendor/Contractor and candidate for promotion should be made aware of the complexity and time issues required to compile and present a portfolio, in order to anticipate and plan for this element of the process.

[d] Provide an orientation and information session for candidates for promotion.

Phase Three: Assessment

[a] Recruit assessors for each promotional assessment exercise.

[b] Provide intensive training, orientation, preparation and practice to each assessor and to each assessor panel.

[c] Provide complete construction, coordination, monitoring, operating, and disassembly of the promotional assessment process sites so as to have the least impact on Police Department operations.

Phase Four: Scoring, Applicant Feedback and Process Review with the Chief of Police, Executive Command Staff, and Project Manager

[a] Provide a ranked order list of all candidates for promotion for the ranks of Corporal, Sergeant, and Lieutenant along with a copy of all computations and scoring mechanisms used to rank the applicants, and a statistical analysis of performance to evaluate adverse impact in terms of race and gender. Provide a non-ranked but qualified candidates list for the rank of Captain.

[b] Provide each promotional applicant individual written feedback on his or her performance, including recommendations for improving performance in future promotional assessments.

[c] Provide a comprehensive report covering all aspects of assessment process development, validation, and methodology to the Police Department within thirty [30] days after the last day of the assessment process. A model of such report must be included with the Proposal.

5.02

Deliverables

All services undertaken by the Vendor/Contractor hereunder shall conform to professional best practices and comport with pertinent court decisions interpreting state and federal law and guidelines for employee selection and promotion. The Durham Police Department is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), and the Department must meet CALEA standards for selection, requiring that all elements used to evaluate candidates for promotion be job-related and non-discriminatory.

The promotional assessments shall be progressive in nature, in that the lowest rank shall have the fewest assessment activities and the highest-ranking positions shall have the most activities and the more complex and challenging.

No one element of the selection process shall serve as an eliminator. All candidates for promotion shall be evaluated on all elements of the assessment process.

The promotional assessment processes, being multi-faceted and complex, have been divided into four (4) phases to facilitate the effective use of time. The following components must be incorporated within the Vendor/Contractor's Proposal:

Phase One: Introduction and Familiarization

[a] Hold in-person or telephone/speakerphone meeting(s) with the Chief of Police, Police Executive Staff, and Project Manager to (1) discuss the Durham Police Department's mission, philosophy, and culture; (2) discuss how the job task analysis activities shall be utilized; (3) define the goals and expectations for the promotional assessment process; (4) review materials provided by the Department for use in test design and promotional assessment process.

[b] Compose an introductory letter, to be signed by the Chief of Police, in collaboration with the Project Manager that (1) introduces the candidates for promotion to the Vendor/Contractor and outlines the Vendor/Contractor's credentials; (2) explains the current [2012] job task analysis to be used in the assessments; (3) informs candidates for promotion that an information and orientation session shall be conducted; (4) outlines the promotional assessment process, including a sentence that no single assessment activity (such as the written examination) shall serve as an eliminator; (5) provides a tentative timeline for the promotion process, and (6) encourages eligible Officers to participate.

[c] Become familiar with the administration of the Durham Police Department through a review of Police General Orders, designated City policies, performance standards, applicable CALEA Standards, most recent [2012] job task analyses for each rank to be assessed, materials from the reading list most recently used for that rank, City of Durham Municipal Code

of Ordinances, current crime analysis data; the most recent United States Department of Justice/FBI NIBRS extracts or Uniform Crime Report, and other materials as agreed upon in discussions with the Chief of Police, Project Manager, and/or designated Department administrators. Crime analysis data and NIBRS extract or Uniform Crime Report shall be provided by the Department to the Vendor/Contractor, insofar as the data and extracts/reports can be provided.

[d] Conduct focus groups with Departmental subject-matter experts to (1) become more familiar with Durham police operations, tasks, methodology, administration, and philosophy, (2) obtain information from job task analyses for each rank, and (3) obtain officer input to incorporate into the design of the promotional assessment process. Employee involvement, through use of Department subject-matter experts and incorporating input into the design of the promotional assessment from those holding the rank of Lieutenant or above, shall improve Vendor/Contractor buy-in and instill greater confidence and trust from officers in the promotion assessment activities and results. Subject-matter experts shall be designated by the Chief of Police and/or designated Department administrators. Focus group members used in the design of promotional assessment activities shall be at or above the rank being assessed.

[e] Reach an agreement with the Chief of Police or his designees on the essential set of knowledge, skills, and abilities required for each rank.

[f] Develop criteria for a written examination (test) for the ranks of Corporal and Sergeant, with such criteria to be determined by mutual agreement between the Chief of Police or his designee[s] and Vendor/Contractor, based on the job analyses, review of provided materials, focus group input, reading list materials, and discussions with the Chief of Police and/or designated Department Executive Staff and Senior Command Staff. In all cases, the criteria must be job-related and non-discriminatory.

[g] Review the current Reading List provided in this document at §4.01, above. If possible, use the current Reading List. Obtain approval of the Chief of Police for the reading list to be used in the assessment processes pursuant to this RFP, after having discussed the list with the Project Manager and/or designated Department Executive and Senior Command Staffs

[h] Assisted by the Project Manager, compose a memorandum on Police Department letterhead to potential candidates for promotion. The memorandum must include: (1) guidance needed to prepare for the written exam and promotional assessment activities; (2) application procedure[s] and application deadline[s]; (3) eligibility guidelines for each rank; and (4) directions to review Police General Order 2010, "Promotions and Appointments for Sworn Personnel". The memorandum must also include the agreed-upon reading list.

[k] Provide a comprehensive report to the Chief of Police and/or his designees, covering all aspects of Phase One activities.

Phase Two: Promotional Assessment Design and Promotion Candidate Orientation

[a] Provide to the Police Department a written draft of the Corporal and Sergeant examinations questions, based on the criteria agreed upon in Phase One, with sufficient questions that some can be eliminated. All test questions must be derived from the agreed-upon Reading List.

[b] Hold meetings with subject-matter experts of the rank of Lieutenant or above, as designated by the Chief of Police and/or designated Department Executive Staff and/or Senior Command Staff to review the test questions to ensure their validity and relevance to Durham Police Department operations. All participants in the review process must sign confidentiality agreements provided by the Vendor/Contractor.

[c] Reach an agreement with the Chief of Police and/or designated Department Executive and/or Senior Command Staffs on the written examination (test) questions for the ranks of Corporal and Sergeant.

[d] Develop criteria for promotional assessment for the ranks of Corporal, Sergeant, Lieutenant, and Captain with such criteria to be determined by mutual agreement between/among the Chief of Police and/or designated Department Executive Staff and/or Senior Command Staff and the Vendor/Contractor. The assessment process must incorporate (1) the knowledge, skills, and abilities prescribed in the current [2012] job task analyses; (2) information from the Police Department review; (3) input from the SMI focus groups; (4) some aspect of work history and past performance of candidates for promotion; and (5) any additional criteria identified by the Chief of Police or his designee[s]. In all cases, the criteria must be job-related and non-discriminatory. The Vendor/Contractor shall provide information on the validity of all components and outline its efforts to ensure that there is no adverse impact on any group of candidates for promotion.

Assessment activities for each rank shall have one component that incorporates some element of applicant work history that is equivalent to that of previous Durham Police Department assessment processes. In previous promotional assessments, each candidate for promotion compiled an extensive portfolio on himself/herself, including a philosophy statement, training records, education transcripts, last three annual performance appraisals, letters of recommendation, letter from Internal Affairs detailing any discipline, peer evaluations, and appraisal of promotion potential from Supervisors. In some cases, candidates for promotion were required to present their portfolios to assessors during the assessment process and to respond to questions. Approximately half of the former candidates for promotion surveyed post-promotion favored, and half did not favor, having to present their portfolios formally. Presentation of applicant work history is a discretionary option for this component. Applicant work history is an important factor; and this element of the promotion process could take up substantial time in both preparation and administration. The Vendor/Contractor should anticipate time constraints when preparing a responsive Proposal.

The promotional assessment process shall be progressive in nature, in that the lowest rank shall have the fewest exercises and the highest-ranking positions shall have the most exercises and those most challenging. No single element of the selection process shall serve as an eliminator. All candidates for promotion shall be evaluated on all elements of the promotional assessment process. The following elements are suggested for the promotional assessment of each rank:

(1) **Corporal's process:** (a) Written exam; (b) at least one additional exercise, such as oral interview by a panel of assessors; situation-based written exercise derived from the Durham Police Department's General Orders, policies or practices; and (c) some method to incorporate the work history of each candidate for promotion.

(2) **Sergeant's process:** (a) Written exam; (b) at least two additional exercises, such as oral interview by a panel of assessors; supervisory role-play exercise; in-basket exercise requiring appropriate action and prioritization of such topics as memo preparation, coaching and counseling, report review, FLSA logs, and the like; and (c) some method to incorporate the work history of each candidate for promotion.

(3) **Lieutenant's process:** (a) At least three exercises, such as oral interview; citizen's group meeting, coupled with a presentation; written exercise requiring a plan of action and involvement of other elements of the Community/Police Department; a supervisory role-play scenario; and (b) some method to incorporate the work history of each candidate for promotion.

(4) **Captain's process:** (1) At least four exercises, such as oral interview; written exercise requiring a plan of action and involvement of other elements of the community and Department; a supervisory role-play scenario; a job simulation exercise; a case study exercise; and (2) some method to incorporate the candidate for promotion's work history.

(5) **USERRA Compliance:** The Uniformed Services Employment and Reemployment Rights Act of 1994 was signed into law to protect the civilian employment of non-full-time military service members in the United States called to active duty. The City of Durham does not discriminate against qualified service members called to active duty from participating in promotional processes. The City shall, upon request, allow qualified members on active duty to perform an alternate test, designed by the Vendor/Contractor, in order to participate in the promotional assessment processes.

[e] Provide to the Chief of Police, his designee[s], and the Project Manager a written design draft for each assessment process for the ranks of Corporal, Sergeant, Lieutenant, and Captain to the Department. The design draft must include all criteria and elements outlined in Section [d] above; and must include (1) all interview questions, answers, and exercises; (2) scoring instruments; (3) information on the validity of all components of each assessment process, and a statement describing efforts to ensure there is no adverse impact on any group of candidates for promotion; (4) the plan for an orientation to prepare all candidates for promotion for the assessment process; (5) the plan for assessor training; (6) the promotional assessment plan

with logistics and scheduling for all activities; (7) a method for candidates for promotion to appeal or challenge any component of the assessment, such as the written examination, exercises, and work history; and (8) an updated timeline for project completion.

[f] Hold meetings with subject-matter experts [SMIs] of the rank of Captain or above, as designated by the Chief of Police and/or his designees to review the proposed promotional assessment activities, in order to ensure their validity and relevance to the Police Department. All participants in the review process must sign confidentiality agreements provided by the Vendor/Contractor.

[g] Reach an agreement with the Chief of Police and/or his designee[s] on all elements of the promotional assessment process for each rank.

[h] Compose a letter on Durham Police Department letterhead to potential candidates for promotion, with:

(1) an outline and explanation of all elements of the promotion process and details about assessment activities;

(2) a schedule for candidate for promotion orientation session and a timeline for the process, so that candidates for promotion can schedule their time and supervisors or Watch Commanders can provide for staffing; and

(3) dates for promotion candidate orientations at several times (morning and evening) so that all candidates for promotion have a chance to attend.

[i] Conduct promotion candidate orientations, at least one session and Q&A session for each rank, at several times (morning and evening), so that all candidates for promotion may attend; and provide for audiovisual recording of one session for each promotion rank for those unable to attend any of the scheduled orientation sessions. All candidates for promotion must have reasonable access to orientation materials. Each orientation and information session should be in sufficient detail to familiarize candidates for promotion with key concepts regarding promotional assessment in general, guidelines for the upcoming promotional assessment process for each rank, and ways to prepare for the assessment process.

[j] Provide a comprehensive report to the Chief of Police, covering in sufficient detail all aspects of Phase Two activities.

Phase Three: Assessment

[a] Identify and secure assessors for the assessment exercises. Each panel of assessors for each exercise must have at least three members, with at least one minority, one non-minority, one male, and one female assessor. Assessors must hold at least one rank higher than the applicants being assessed. The Department expects the Vendor/Contractor to pay for

any and all expenses for assessors, such as travel, hotel if necessary, meals, etc. Because assessors might cancel, or otherwise be unable to serve, the Vendor/Contractor shall make provision for additional or “floater” assessors.

[b] Identify and secure appropriate off-site location[s], convenient for candidates for promotion, in which to hold assessment activities. Ensure sufficient space for testing, assessment exercises, rooms for out-of-town assessors, waiting area[s] for candidates for promotion, meal/break room for assessors and for candidates, and parking for Vendor/Contractors and assessors. Previous promotional assessment processes have been held at local hotels and schools. All costs associated with the location[s] shall be the responsibility of the Vendor/Contractor.

[c] Schedule candidates for promotion in coordination with Department command staff so as to minimize disruption to police operations; and notify applicants in writing of the date, time[s], and location[s] of all assessment activities.

[d] Administer training for assessors, and invite the Project Manager and a member of the Police Department Executive Staff to attend.

[e] Prepare and assemble all assessment and scoring forms and instruments; assemble candidate and assessor packets; purchase all materials and supplies; handle all preparation and set-up activities prior to starting promotional assessment activities.

[f] Secure a camcorder or other audiovisual recording device to record promotion candidates’ performance in assessment exercises. The purpose of recording candidate performance is to assist in their career development, and to provide documentation, should that be required for an appeal or challenge to the selection process. The Department expects the Vendor/Contractor to obtain and pay for all audiovisual recording devices and equipment, and to coordinate all taping activities. The audiovisual recordings shall be provided to the Police Department when the assessment processes are completed.

[g] Coordinate, monitor, and administer all assessment activities for each rank, based on the design agreed upon in Phase Two. Replenish supplies as needed. Manage candidate traffic throughout the assessment process, including sequestering and monitoring candidates before, between, and after exercises until the candidates leave the location. Administer confidentiality agreements for each candidate for promotion. Provide proctors for the written examination. Ensure that no scores are missing, and that scoring is complete and accurate for every promotional applicant. Ensure that assessor comments on the assessment and candidates are job-related. Maintain safety and security of applicant materials. Provide liaison with assessors, applicants, and Police Department to resolve any problems or issues as they arise. If the Vendor/Contractor deems it necessary, the Vendor/Contractor will coordinate with the Department in advance to ensure that the Department can provide the security while still maintaining adequate coverage for normal operations. Private security is not permitted for any part of the assessment processes.

[h] Complete the breakdown and disassembling after the assessment process has concluded. Maintain security of examination/assessment materials, and ensure that no candidate materials are lost, incomplete or compromised.

[i] Provide the Chief of Police with a detailed written report covering all aspects of Phase Three activities, including any updates to the timeline.

Phase Four: Scoring, Applicant Feedback and Process Review with Chief of Police

[a] Score the written examinations, and score or review the assessors' scoring of all promotional assessment activities for each rank.

[b] Compile and present the results to the Chief of Police or his designee as soon as possible, although no later than 30 days after the assessments conclude; and make recommendations regarding the candidates for promotion. The Police Department Fiscal Manager will arrange for an audit of the results, at the direction of the Administrative Services Bureau Chief.

[c] Compile written reports for individual candidates for promotion, and debrief each applicant on his/her performance in a written report and/or in person. Ratings for each activity and a summary total for each officer must be included, along with the top score, low score, average score, and cutoff score, with no names attached to any of those scores. A summary of assessor comments and a brief assessment of strengths and weaknesses, and where improvements could be made in future assessment activities, must also be included.

[d] Provide to the Chief of Police or his designee all audiovisual recorded applicant performances in assessment process activities, appropriately labeled by candidate name.

[e] Produce and provide to the Chief of Police or his designee[s] a comprehensive final written report covering (1) all aspects of the promotional assessment process development (i.e., focus groups and every other activity); (2) materials included as part of candidate orientation, communication, and preparation; (3) a detailed account of all written examination (test) questions and answers, exercises and activities, scoring dimensions, and how they were validated for each rank being assessed; (4) administration of the assessment process, including any instructions, written examination (test) proctoring, any difficulties encountered and the manner in which they were resolved; (5) assessor identifying information for each rank and activity/exercise, including assessor rank and employer, race/gender, and assessor comments; (6) scoring rules, methods, and calculations, (7) rank-ordered lists for each rank (only a qualified list of personnel for rank of Captain) for each activity, including all computations and scoring mechanisms used to rank the candidates, average score, and minimum and maximum scores; (8) rank-ordered list for each rank that includes all assessment activity scores with average score, minimum passing and maximum scores, and standard deviation; and (9) statistical analysis by assessment activity and by rank to evaluate any adverse

impact based on race and/or gender. The final report must be provided within thirty (30) days after conclusion of the promotional assessment. A sample final report must be included with the Proposal.

[f] Provide a copy of all materials necessary to support review and administration of all testing, assessment, scoring and feedback for each rank. All materials described in this Section shall remain the property of the City, and shall be retained by the City on its premises, with the exception of any copyrighted or other clearly proprietary materials provided by the Vendor/Contractor. The City shall own said materials, and shall have the exclusive full copyright to all such materials as described in this RFP. The Vendor/Contractor shall provide all materials, including all candidate and assessor materials, and all original materials used in the development and administration of the written examination and assessment process for each rank, as requested by the City in its RFP. The Vendor/Contractor shall provide all such original written examination and promotional assessment materials for each rank. Duplication of appropriate copies for testing purposes shall be the responsibility of the Vendor/Contractor.

[g] Conduct an electronic survey of the candidates for promotion about their experiences with the assessment activities and with the Vendor/Contractor. The Vendor/Contractor shall collaborate with the Project Manager on survey content; the Vendor/Contractor shall provide all survey materials, and coordinate with Department Executive Staff and Senior Command Staff to conduct the survey and obtain the results. A copy of the survey results shall be provided to the Chief of Police and/or his designee[s].

[h] Review the entire project with Chief of Police, the Project Manager, and/or Department Executive Staff and Senior Command Staff to share feedback and evaluate the assessment process.

[i] Provide the Police Department with timely assistance, upon the Department's request, to address post-promotion appeals, grievances, EEOC complaints, litigation, and any other issue or challenge arising out of the performance of this promotional process.

SECTION SIX

PROPOSAL FORMAT AND CONTENT

6.01

Proposal Format and Content

The City discourages overly lengthy and costly Proposals. However, in order for the City to evaluate Proposals fairly and completely, Vendor/Contractors should follow the format set out in this Section and elsewhere in this RFP, and provide all of the information requested.

6.02

Introduction

Proposals must include the complete name and address of the Vendor/Contractor firm, and the name, mailing address, and telephone number of the person the Police Department should contact regarding the Proposal. Proposals must confirm that the Vendor/Contractor shall comply with all of the provisions in this RFP, particularly all the deliverables outlined in Section 5.02, above. If applicable, Vendor/Contractor should provide notice that the firm qualifies as a City of Durham bidder. Proposals must be signed by an officer of the Vendor/Contractor entity, who is empowered to bind the entity. A Vendor/Contractor's failure to include these items in its Proposal could result in their Proposal being determined to be non-responsive, and the Proposal could be rejected.

6.03

Understanding of the Project

Vendor/Contractors must provide a comprehensive narrative statement that illustrates complete understanding of the Project requirements and the Project Schedule.

6.04

Methodology Used for the Project

Vendor/Contractor must provide a comprehensive narrative statement that sets out the methodology it will follow, and that illustrates how the Vendor/Contractor's methodology will accomplish the Work and meet the City's Project Schedule.

6.05

Project Management Plan

Vendor/Contractor must provide a comprehensive narrative statement that sets out the management plan it intends to follow, and that illustrates how that plan will accomplish the Work and meet the City's Project Schedule.

6.06

Experience and Qualifications

Vendor/Contractor must provide an organizational chart specific to the personnel assigned to accomplish the Work described in this RFP; to illustrate the lines of authority; and to designate the person[s] responsible and accountable for the completion of each component and deliverable of this RFP.

Vendor/Contractor must provide a narrative description of the organization of the Project Team and its experience in terms of length and breadth of service in regard to promotional assessments, particularly for police agencies.

Vendor/Contractor must provide a personnel roster that identifies each person who shall actually perform work under the Contract; and must provide the following information about each person listed:

[a] name and title,

[b] résumé;

[c] location(s) where Work under the Contract shall be performed, and

[d] itemize the total cost and the number of estimated hours for each person to be named, above.

Vendor/Contractor must provide reference names, e-mail addresses, and phone numbers for similar Projects the Vendor/Contractor has performed within the last 5 years.

6.07

Cost Proposal

Vendor/Contractor's cost Proposal must include an itemized list of all direct and indirect costs associated with the performance under the Contract including, but not limited to, total number of hours at various hourly rates; direct expenses; payroll; supplies; overhead assigned to each person working on the Project; percentage of each person's time devoted to the Project; and expected profit.

6.08

Evaluation Criteria

The Police Department Executive Staff and selected members of the Senior Command Staff [the Evaluation Team] shall review all Proposals submitted, to determine whether each Proposal is responsive. The Evaluation Team shall evaluate the remaining Proposals, using the criteria set out in Section Seven, below.

SECTION SEVEN EVALUATION CRITERIA AND VENDOR/CONTRACTOR SELECTION

**THE TOTAL NUMBER OF POINTS USED
TO SCORE THIS CONTRACT IS 100**

7.01

Understanding of the Project—15%

Proposals shall be evaluated against the questions set out below.

- [a] How well has the Vendor/Contractor demonstrated a thorough understanding of the purpose and scope of the Project?
- [b] How well has the Vendor/Contractor identified pertinent issues and potential problems related to the Project?
- [c] How well has the Vendor/Contractor demonstrated that it understands the deliverables the City expects it to provide?
- [d] How well has the Vendor/Contractor demonstrated that it understands the City's time schedule and can meet it?
- [e] Whether the Proposal will result in adherence to the City's M/WBE program. Please consult the City's website: www.durhamnc.gov and review the Section titled, "How to do business in the City."

7.02

Methodology Used for the Project—15%

Proposals shall be evaluated against the questions set out below.

- [a] How well does the methodology depict a logical approach to fulfilling the requirements of the RFP?
- [b] How well does the methodology match and contribute to achieving the objectives set out in the RFP?
- [c] How well does the methodology interface with the time schedule in the RFP?

7.03

Project Management Plan—15%

Proposals shall be evaluated against the questions set out below.

- [a] How well does the management plan support all Project requirements and logically lead to the deliverables required in the RFP?
- [b] Is chain of accountability completely and clearly defined?
- [c] Is the organization of the Project Team clear?
- [d] How well does the management plan illustrate the lines of authority and communication within the Vendor/Contractor's business entity?
- [e] To what extent does the Vendor/Contractor already have the hardware, equipment, and licenses necessary to perform Work under the Contract?
- [f] Does it appear that the Vendor/Contractor can meet the Project Schedule set out in the RFP?
- [g] Has the Vendor/Contractor offered alternate deliverables and gone beyond the minimum tasks necessary to meet the objectives of the RFP?
- [h] Is the Proposal practical, feasible, and within budget?
- [i] How well have any potential problems been identified? How would the Vendor/Contractor address them?

- [j] Is the submitted Proposal responsive to all material requirements of the RFP?

7.04

Experience and Qualifications—15%

Proposals shall be evaluated against the questions set out below.

Questions regarding the Vendor/Contractor's personnel.

- [a] Do the persons assigned to the Project have experience with similar projects of equal or larger scale than that described in this RFP?
- [b] Are résumés complete? Do they demonstrate backgrounds that would be appropriate for persons engaged in the Work the Project requires?
- [c] How extensive are the applicable education and experience of the personnel designated to work on the Project?
- [d] How knowledgeable of the Triangle area and Durham in particular are the Vendor/Contractor's personnel? How many persons to be assigned to the Project have worked in the Triangle area previously?

Questions regarding the Vendor/Contractor entity.

- [e] How well has the entity demonstrated experience with completing similar projects on time and within budget?
- [f] How successful is the general history of the entity regarding timely and successful completion of projects?
- [g] Has the entity provided appropriate letters of reference from previous clients?
- [h] How reasonable are the entity's cost estimates?
- [i] If a Subvendor/Contractor shall perform work on the Contract, how well does the Subvendor/Contractor as an entity and its personnel measure up to the evaluation criteria applicable to the Vendor/Contractor?

7.05

Contract Cost—40%

Overall, a minimum of 40% of the total evaluation points shall be assigned to Contract cost as outlined in the Sample Proposal Evaluation Form attachment, at Section 8.01, below.

The lowest cost Proposal shall receive the maximum number of points allocated to cost. The Proposal Evaluation Team shall determine the point allocations for cost for all other responsive Proposals.

SECTION EIGHT ATTACHMENTS

8.01

Sample Proposal Evaluation Form

All Proposals shall be reviewed for responsiveness and then evaluated using the criteria set out herein, and elsewhere in this Request for Proposals.

Entity Name _____

Evaluation Team Member _____

Date Reviewed _____

RFP Number _____

EVALUATION CRITERIA AND SCORING *THE TOTAL NUMBER OF POINTS USED TO SCORE THIS CONTRACT IS 100*

8.01 Understanding of the Project—15% [100 X .15 = 15 points]

Maximum Point Value for this Section - 15 Points

Proposals shall be evaluated against the questions set out below.

[a] How well has the Vendor/Contractor demonstrated a thorough understanding of the purpose and scope of the Project?

- [b] How well has the Vendor/Contractor identified pertinent issues and potential problems related to the Project?
- [c] How well has the Vendor/Contractor demonstrated that it understands the deliverables the City expects it to provide?
- [d] How well has the Vendor/Contractor demonstrated that it understands the City's time schedule and can meet it?

EVALUATOR'S POINT TOTAL FOR §8.01 _____

8.02 Methodology Used for the Project—15% [100 points x .15 = 15 points]

Maximum Point Value for this Section -- 15 Points

Proposals shall be evaluated against the questions set out below.

- [a] How well does the methodology depict a logical approach to fulfilling the requirements of the RFP?
- [b] How well does the methodology match and contribute to achieving the objectives set out in the RFP?
- [c] How well does the methodology interface with the time schedule in the RFP?

EVALUATOR'S POINT TOTAL FOR §8.02 _____

8.03 Management Plan for the Project—15% [100 points x .15 = 15 points]

Maximum Point Value for this Section -- 15 Points

Proposals shall be evaluated against the questions set out below.

- [a] How well does the management plan support all of the Project requirements and logically lead to the deliverables required in the RFP?
- [b] Is chain of accountability completely and clearly defined?
- [c] Is the organization of the Project Team clear?
- [d] How well does the management plan illustrate the lines of authority and communication within the Vendor/Contractor's business entity?

- [e] To what extent does the vendor already have the hardware, equipment, and licenses necessary to perform under Work the Contract?
- [f] Does it appear that Vendor/Contractor can meet the schedule set out in the RFP?
- [g] Has the Vendor/Contractor offered alternate deliverables and gone beyond the minimum tasks necessary to meet the objectives of the RFP?
- [h] Is the Proposal practical, feasible, and within budget?
- [i] How well have any potential problems been identified? How would the Vendor/Contractor address them?
- [j] Is the submitted Proposal responsive to all material requirements of the RFP?

EVALUATOR'S POINT TOTAL FOR §8.03 _____

8.04 Experience and Qualifications—15% [100 points x .15 = 15 points]

Maximum Point Value for this Section - 15 Points

Proposals shall be evaluated against the questions set out below.

Questions regarding the personnel.

- [a] Do the persons assigned to the Project have experience with similar projects of equal or larger scale than that described in this RFP?
- [b] Are the résumés complete? Do they demonstrate backgrounds that would be appropriate for persons engaged in the work the Project requires?
- [c] How extensive are the applicable education and experience of the personnel designated to Work on the Project?
- [d] How knowledgeable of the Triangle area and Durham in particular are the Vendor/Contractor's personnel? How many persons to be assigned to the Project have worked in the Triangle area previously?

Questions regarding the Vendor/Contractor entity

- [e] How well has the entity demonstrated experience with completing similar projects on time and within budget?

[f] How successful is the general history of the entity regarding timely and successful completion of projects?

[g] Has the entity provided letters of reference from previous clients?

[h] How reasonable are the firm's cost estimates?

[i] If a Subvendor/Contractor shall perform work under the Contract, how well do the Subvendor/Contractor as an entity and its personnel measure up to the evaluation applicable to the Vendor/Contractor?

EVALUATOR'S POINT TOTAL FOR §8.04 _____

8.05 Contract Cost 40% [100 points x .4 = 40 points]

Maximum Point Value for this Section - 40 Points

Overall, a minimum of 40% of the total evaluation points shall be assigned to cost.

CONVERTING COST TO POINTS

The lowest cost Proposal shall receive the maximum number of points allocated to cost.

EVALUATOR'S POINT TOTAL FOR 8.05 _____

EVALUATOR'S COMBINED POINT TOTAL FOR ALL SECTIONS: _____

Evaluator Signature: _____

Evaluator Name, printed: _____

Date completed: _____

8.06

Affidavit

AFFIDAVIT

State of _____

§§

County of _____

_____, appearing before the undersigned notary public and being duly sworn, says that:

He (she), _____ swears or affirms that he (she) has not engaged in collusion with any City of Durham employee(s), other person(s), corporations, other business entities, or firms relating to this bid, Proposal or quotation. He (she) acknowledges that collusive bidding is a violation of North Carolina and federal law, and could result in fines, prison sentences, and civil damage awards.

Affiant

Sworn to (or affirmed) and subscribed before me this _____ day of

_____, 2012

Official Seal
Notary Public

My commission expires _____, 20_____.

8.03

Sample Contract

**CONTRACT FOR A
PROMOTIONAL ASSESSMENT PROCESS
FOR THE CITY OF DURHAM POLICE DEPARTMENT
Ranks of Corporal, Sergeant, and Lieutenant**

This Contract ("Agreement") is made and entered into on this _____ day of _____, 2012, by the City of Durham ("City") and [name of firm] ("Vendor/Contractor"), [Indicate type of entity, for instance:

*a corporation organized and existing under the laws of [name of State];
a professional corporation organized and existing under the laws of [name of State];
a professional association organized and existing under the laws of [name of State];
a limited partnership organized under the laws of [name of State];
a sole proprietorship; or a general partnership].*

Sec. 1. Background and Purpose. The City of Durham desires to hire a Consultant to provide services, as an independent Vendor/Contractor, for the purpose of conducting a promotional assessment process that shall determine promotions within the Durham Police Department for the ranks of Corporal, Sergeant and Lieutenant.

Sec. 2. Services and Scope to be Performed; Presumption that Duty is Vendor/Contractor's. The Vendor/Contractor shall perform the Work utilizing the methodology described in the successful Vendor/Contractor's Proposal for Police Promotional Assessment Services ("RFP"), to include Section 5.01, titled, "Scope of Work", and Section 5.02, titled, "Deliverables," including all Subsections therein. Unless mutually agreed upon by the parties, the Work shall be performed and provided in accordance with the schedule set forth in the successful Vendor/Contractor's Proposal response to RFP Section 5.03, titled, "Work Schedule."

The Vendor/Contractor shall not publish or disclose to third parties, in any way whatsoever, any information, results, conclusions, studies or other data of any kind arising directly or indirectly from the Vendor/Contractor's performance under this Agreement, without prior review by the City of the final proposed publication or disclosure draft, and without written permission from the City to publish or disclose such draft or portion thereof. The City shall not be obligated to give such permission.

It is conceivable that all or part of the information, results, conclusions, studies or other data arising out of the performance of this Agreement by the Vendor/Contractor could be

utilized by the City in litigation. If expert testimony from the Vendor/Contractor is requested by the City, the Vendor/Contractor shall provide such testimony. Payment for such expert testimony shall not be covered by this Agreement, but shall be subject to subsequent appropriation of necessary funds by the City. In the event that the City is required to respond to a grievance, administrative hearing, legal action, or other proceeding arising out of a promotional process pursuant to this Agreement, the City and the Vendor/Contractor agree that in those actions where there is no issue between the City and the Vendor/Contractor regarding the quality of services provided by the Vendor/Contractor, then the City agrees to pay the Vendor/Contractor one hundred and seventy five dollars (\$175.00) per hour for any services that the Vendor/Contractor is asked to render in defense of the promotional process, including court appearances, testifying before a grievance board or other administrative tribunal, or providing written documentation. Payment for such services shall be made at the conclusion of the services rendered. In actions where there is a material dispute between the City and the Vendor/Contractor regarding the quality of services provided to the City by the Vendor/Contractor, there shall be no Vendor/Contractor fee paid for appearances, testifying before grievance boards or other administrative tribunals, or providing written documentation.

As used in this Agreement, the term, "Work," means the services that the Vendor/Contractor is required to perform pursuant to this Agreement, and all of the Vendor/Contractor's duties to the City that arise out of this Agreement. Unless the context requires otherwise, if this Agreement sets forth that a task is to be performed or that a duty is owed, it shall be presumed that the task or duty is the obligation of the Vendor/Contractor.

Sec. 3. Term of Agreement. The term of this Agreement shall commence upon the date on which this Agreement was made and entered into; and shall terminate at the end of nine (9) months therefrom, unless extended by either party or otherwise terminated pursuant to the terms of this Agreement. Both parties agree that in the performance of the terms, conditions, and requirements of this Agreement by the Vendor/Contractor, time is of the essence.

Sec. 4. Complete Work without Extra Cost. Except to the extent otherwise specifically stated in this Agreement, the Vendor/Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

Sec. 5. Vendor/Contractor's Billings to City; Compensation. The City shall pay the Vendor/Contractor the sum of \$_____ for all Work pursuant to this Agreement as follows:

\$_____ On the date when this Agreement is fully executed by both parties to it;

\$_____ Upon the City's review and approval of written examination (test) and promotional assessment activities;

\$_____ Upon final receipt of all Vendor/Contractor's Work product to the City.

Prior to the City's, the Vendor/Contractor shall send an invoice to the City for the amount to be paid pursuant to this Agreement. Each invoice shall document and describe to the reasonable satisfaction of the City the Work being invoiced. Within twenty (20) days after the City receives such invoice, the City shall send the Vendor/Contractor a check in payment for all undisputed amounts contained in the invoice.

The City shall not be obligated to pay the Vendor/Contractor any payments, fees, expenses, or compensation other than those authorized by this Section.

Sec. 6. Prompt Payment to Subvendor/Contractors.

(a) Within seven (7) days after the Vendor/Contractor receives each payment from the City under this Contract, the Vendor/Contractor shall pay all Subvendor/Contractors (which term includes sub-consultants and suppliers), based on Work completed or service provided under the Subcontract. Should any payment to a Subvendor/Contractor be delayed by more than seven (7) days after the Vendor/Contractor receives payment from the City under this Contract, the Vendor/Contractor shall pay the Subvendor/Contractor interest, beginning on the 8th day, at the rate of 1% per month or fraction thereof on such unpaid balance as might be due. By appropriate litigation, Subvendor/Contractors shall have the right to enforce this Subsection 6(a) directly against the Vendor/Contractor, but not against the City of Durham.

(b) If the person assigned to administer this Agreement for the City (in this Section, titled, "Prompt Payment to Subvendor/Contractors," he or she shall be referred to as the "Project Manager") determines that it is appropriate to enforce Subsection (a) in such manner, the City may withhold from progress or final payments to the Vendor/Contractor the sums estimated by the Project Manager to be:

- (i) the amount of interest due to the Subvendor/Contractor under Subsection (a); and/or
- (ii) the amounts past-due under Subsection (a) to the Subvendor/Contractor but not exceeding 5% of the payment(s) due from the City to the Vendor/Contractor.

This Subsection (b) does not limit any other rights to withhold payments that the City might have.

(c) Nothing in this Section (titled, "Prompt Payment to Subvendor/Contractors") shall prevent the Vendor/Contractor at the time of invoicing, application, and certification to the City from withholding invoicing, application, and certification to the City for payment to the Subvendor/Contractor for unsatisfactory job progress; defective goods, services, or construction not remedied; disputed Work; third-party claims filed or reasonable evidence that such a claim shall be filed; failure of the Subvendor/Contractor to make timely payments for labor, equipment, and materials; damage to the Vendor/Contractor or another Subvendor/Contractor; reasonable evidence that the Subcontract cannot be completed for the unpaid balance of the Subcontract sum; or a reasonable amount for retainage not to exceed 10%.

(d) The Project Manager may require, as a prerequisite to making progress or final

payments, that the Vendor/Contractor provide statements from any Subvendor/Contractor[s] designated by the Project Manager, regarding the status of their accounts with the Vendor/Contractor. The statements shall be in such format as the Project Manager reasonably requires, including notarization, if so specified.

Sec. 7. Insurance. Vendor/Contractor shall maintain insurance of not less than the following:

Commercial General Liability, covering:

- Premises/operations
- Products/completed operations (two years minimum, from project completion)
- Broad form property damage
- Contractual liability
- Independent Subvendor/Contractors, if any are used in the performance of this Agreement
- The City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the Certificate of Insurance (if by blanket endorsement, then agent may so indicate in the General Liability Section of the Certificate of Insurance, in lieu of an original endorsement)
- Combined single limit of not less than \$2,000,000 per occurrence, with an annual aggregate of not less than \$4,000,000.

Commercial Auto Liability, covering:

- Symbol 1, all vehicles
- Combined single limit of \$2,000,000
- The City of Durham must be named additional insured

Professional Liability, covering:

- Covering claims arising out of professional advisement or consultation services performed in connection with this Agreement
- Self-insured retentions/deductibles in excess of \$25,000 must be approved by the City Finance Director
- Combined single limit not less than \$1,000,000 per occurrence; if coverage is only available on claims made basis, then additional coverage requirements might apply, subject to review of the City Finance Director

Workers' Compensation Insurance, covering:

- Statutory benefits;
- Covering employees; covering owners, partners, officers, and relatives (who work on this Contract; this must be stated on the Certificate of Insurance)
- Employers' liability, \$1,000,000
- Waiver of subrogation in favor of the City of Durham

Insurance shall be provided by:

- Companies authorized to do business in the State of North Carolina
- Companies with Best rating of A-, VII or better.

Insurance shall be evidenced by a certificate:

- Providing notice to the City of not less than 30 days prior to cancellation or reduction of coverage
- Certificates shall be addressed to:
City of Durham
Police Department
505 West Chapel Hill Street
Durham, North Carolina 27703
Attention: Personnel Services
- The Certificate of Insurance and the additional insured endorsement must be originals, and must be approved by the City's Finance Director before Vendor/Contractor can begin any Work under this Contract.

Sec. 8. Performance of Work by City. If the Vendor/Contractor fails to perform the Work in accordance with the schedule referred to in **Section 1.02** of the Request for Proposals, above, the City may, in its sole discretion, in order to bring the project closer to the schedule, perform or cause to be performed some or all of the Work; and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Vendor/Contractor notice of its intention. The Vendor/Contractor shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this Section.

Sec. 9. Attachments. The following attachments are made a part of this Agreement:

Attachment A, Request for Proposals, containing XX pages.

Attachment B, Vendor Proposal, containing _____ pages.

In case of conflict between an Attachment and the text of this Agreement, excluding the Attachment, the text of this Agreement shall control.

Sec. 10. Notice.

(a) All notices and other communications required or permitted by this Agreement shall be in writing; and shall be given either by personal delivery, e-mail, Federal Express, or certified United States mail, return receipt requested, addressed as follows:

To the City:

Giancarlo Ladaga
Personnel Services Manager
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701
Telephone number: 919-560-4402 x29155
E-mail: eileen.bensen@durhamnc.gov

To the Vendor/Contractor:

[Insert name and address]
Telephone number: **[Insert here]**
E-mail: **[Insert here]**

(b) Change of Address. Date Notice Deemed Given. A change of address, telephone number, e-mail address or person authorized to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Agreement shall be deemed given at the time of actual delivery, if it is personally delivered or sent by e-mail. If the notice or other communication is sent by Federal Express or United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the carrier, or upon actual delivery, whichever first occurs.

Sec. 11. Indemnification.

(a) To the maximum extent allowed by law, the Vendor/Contractor shall defend, indemnify, and save harmless Indemnitees from and against all charges that arise in any manner from, in connection with, or out of this Agreement as a result of acts or omissions of the Vendor/Contractor or Subvendor/Contractors, or by anyone directly or indirectly employed by any of them, or anyone for whose acts any of them might be liable. In performing its duties under this Subsection 11(a), the Vendor/Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.

(b) **Definitions.** As used in Subsection 11(a) above, **“Charges”** means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, and interest and reasonable attorneys' fees assessed as part of any such item. **“Indemnitees”** means the City of Durham, North Carolina and its officers, officials, independent Vendor/Contractors, agents, and employees, excluding the Vendor/Contractor.

(c) **Other Provisions Separate.** Nothing in this Section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this Agreement. This Section is in addition to, and shall be construed separately from, any other indemnification provisions that might be part of this Agreement.

(d) **Survival.** This Section shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of the Vendor/Contractor under this Agreement.

Sec. 12. Miscellaneous

a) **Choice of Law and Forum; Service of Process.** (i) This Agreement shall be deemed made in the City of Durham, Durham County, North Carolina. This Agreement shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to United States federal court. This Subsection 12(a) shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Subsection 12(a). (ii) If the Vendor/Contractor is not a natural person (for instance, the Vendor/Contractor is a corporation or limited liability company), this Subsection 12(a)(ii) applies. **“Agent for Service of Process”** means every person now or hereafter appointed by the Vendor/Contractor to be served or to accept service of process in any State of the United States. Without excluding any other method of service authorized by law, the Vendor/Contractor agrees that every Agent for Service of Process is designated as its non-exclusive agent for service of process, summons, and complaint. The Vendor/Contractor shall instruct each Agent for Service of Process that after such agent receives the process, summons, or complaint, such agent shall promptly send it to the Vendor/Contractor. This Subsection 12(a)(ii) does not apply while the Vendor/Contractor maintains a registered agent in North Carolina with the office of the North Carolina Secretary of State, and such registered agent can be found with due diligence at the registered office.

(b) **Waiver.** No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) **Performance of Government Functions.** Nothing contained in this Agreement shall be deemed or construed so as to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) **Severability.** If any provision of this Agreement shall be unenforceable, the remainder of this Agreement shall be enforceable to the extent permitted by law.

(e) **Assignment; Successors and Assigns.** Without the City's written consent, the Vendor/Contractor shall not assign (which includes delegating) any of its rights (including the right to payment) or duties that arise out of this Agreement. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Vendor/Contractor and all assignees shall be subject to all of the City's defenses, and shall be liable for all of the Vendor/Contractor's duties that arise out of this Agreement, and all of the City's claims that arise out of this Agreement. Without granting the Vendor/Contractor the right to assign, it is agreed that the duties of the Vendor/Contractor that arise out of this Agreement shall be binding upon the Vendor/Contractor and its heirs, personal representatives, successors, and assigns.

(f) **Compliance with Law.** In performing all of the Work, the Vendor/Contractor shall comply with all applicable law.

(g) **Notice of City Policy.** **The City of Durham, North Carolina opposes discrimination on the basis of race and gender, and urges all of its Vendor/Contractors to provide a fair opportunity for minorities and women to participate in their workforces, and as Subvendor/Contractors under Agreements entered into by the City of Durham, North**

Carolina and its Vendor/Contractors.

(h) **EEO Provisions.** During the performance of the Work under this Agreement, the Vendor/Contractor agrees as follows: (1) The Vendor/Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, political affiliation or belief, age, or disability. The Vendor/Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated, equally during employment, without regard to race, color, religion, gender, national origin, political affiliation or belief, age, or disability. Such affirmative action shall include, but not be limited to, the following: employment, upgrading/promotion, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Vendor/Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Vendor/Contractor shall in all solicitations or advertisement for employees placed by or on behalf of the Vendor/Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, gender, national origin, political affiliation or belief, age, or disability. (3) The Vendor/Contractor shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding. (4) In the event of the Vendor/Contractor's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend this Agreement, in whole or in part, and the City may declare the Vendor/Contractor ineligible for further City Contracts. (5) Unless exempted by the City Council of the City of Durham, the Vendor/Contractor shall include these EEO provisions in every purchase order for goods to be used in performing Work pursuant to this Agreement, and in every Subcontract related to this Agreement, so that these EEO provisions shall also be binding upon such Subvendor/Contractors and other vendors.

(i) **Small Disadvantaged Business Enterprises ["SDBE"].** The Vendor/Contractor shall comply with all applicable provisions of Article III, Chapter 18 of the Durham City Code (Equal Business Opportunities Ordinance), as amended from time to time. The failure of the Vendor/Contractor to comply with that article shall be a material breach of this Agreement, which may result in the rescission or termination of this Agreement and/or other appropriate remedies in accordance with the provisions of that Article III, Sec. 18, this Agreement, and State law. The Participation Plan submitted in accordance with that Article III is binding on the Vendor/Contractor. Article III, Section 18-59(f) provides, in part, "If the City Manager determines that the Vendor/Contractor has failed to comply with the provisions of the Contract, the City Manager shall notify the Vendor/Contractor in writing of the deficiencies. The Vendor/Contractor shall have 14 days, or such time as specified in the Contract, to cure the deficiencies or establish that there are no deficiencies." It is stipulated and agreed by the parties to this Agreement that those two quoted sentences apply only to the Vendor/Contractor's alleged violations of its obligations under Article III of Chapter 18 of the Durham City Code, and not to the Vendor/Contractor's alleged violations of other obligations.

(j) **No Third Party Rights Created.** This Agreement is intended for the benefit of the City and the Vendor/Contractor, and not for the benefit of any other person.

(k) **Principles of Interpretation and Definitions.** (1) The singular includes the plural, and the plural the singular. The pronouns, "it" and "its," include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions

consolidating, amending, or replacing the statute or regulation. References to “Contract” and “Agreement” shall be deemed to include all amendments to them. The words, “include,” “including,” etc., mean include, including, etc. without limitation. (2) References to a “Section” or “Sections” shall mean a Section of this Agreement, unless otherwise specifically noted. (3) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (4) “Duties” includes obligations. (5) The word, “person,” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word, “shall,” is mandatory. (7) The word, “day,” means calendar day. (8) The word, “Work” is defined in Section 2 of this Agreement, supra. (9) A definition in this Agreement shall not apply to the extent that the context requires otherwise.

(l) **Modifications. Entire Agreement.** A modification of this Agreement is not valid unless signed by both parties to it, and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless it is signed by the City Manager, a deputy or assistant City Manager, or, in limited circumstances, a City Department Director. This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referred to in this Agreement.

(m) **City’s Manager’s Authority.** To the extent, if any, that the City has the power to suspend or terminate this Agreement, or the Vendor/Contractor’s services under this Agreement, that power may be exercised by City Manager or a deputy or assistant City Manager without City Council action.

Sec. 13. Termination for Convenience (“TFC”).

(a) **Procedure.** Without limiting any party’s right to terminate for breach, the parties agree that the City may, without cause, and in its sole discretion, terminate this Agreement for convenience by giving the Vendor/Contractor written notice that refers to this Section 13. TFC shall be effective at the time indicated in the notice.

(b) **Obligations.** Upon TFC, all obligations that are still executory on both sides shall be discharged, except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. At the time of TFC or as soon thereafter as is practical, the Vendor/Contractor shall give the City all Work product, including partly completed Work product. In case of TFC, the Vendor/Contractor shall follow the City’s instructions as to which Subcontracts to terminate.

(c) **Payment.** The City shall pay the Vendor/Contractor an equitable amount for the costs and charges that accrue because of the City’s decisions with respect to the Subcontracts, but excluding profit for the Vendor/Contractor. Within 20 days after TFC notice has been effected, the City shall pay the Vendor/Contractor one hundred dollars (\$100.00) as a TFC fee, and shall pay the Vendor/Contractor for all Work performed except to the extent previously paid for. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed, except to the extent it would be inequitable to either party; and if Work was to have been paid on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work or portion of it. The Vendor/Contractor shall not be entitled to any payment because of

TFC except as stated in this Section 13(c), whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

IN WITNESS WHEREOF, the City of Durham, North Carolina and the Vendor/Contractor have caused this Agreement to be executed under seal, themselves or by their respective duly authorized agents or officers.

[For the City's signature form, see the three forms on the City Attorney's Intranet page, under GBSB. In nearly all instances, the right form is City Signature Form – Electronic.

For the Vendor/Contractor's execution forms, see Appendices E and F on the City Attorney's Intranet page, under GBSB. Write the Vendor/Contractor's name in the Vendor/Contractor's signature form and in the form by which the Vendor/Contractor's signature is notarized.]

8.04

Equal Business Opportunity Ordinance



CITY OF DURHAM SMALL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

PROFESSIONAL SERVICES FORMS

Revised 06/08



Mailing Address:

101 City Hall Plaza
Durham, North Carolina 27701
Phone: 919-560-4180
Facsimile: 919-560-4513

Street Address:

302 East Pettigrew Street, C-180
Durham, North Carolina 27701

The Department of Equal Opportunity/Equity Assurance
Good Things Are Happening In Durham

CITY OF DURHAM EQUAL BUSINESS OPPORTUNITY PROGRAM

Policy Statement

It is the policy of the City to provide equal opportunities for City Contracting to small firms owned by socially and economically disadvantaged persons doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its Contracting activities so as to prevent such discrimination, to correct the present effects of past discrimination and to resolve complaints of discrimination.

Goals

To increase the dollar value of all City Contracts for goods and services awarded to small disadvantaged business enterprises, it is a desire of the City that the Vendor/Contractor shall voluntarily undertake efforts to increase the participation of socially and economically disadvantaged individuals at higher skill and responsibility levels within non-minority firms engaged in Contracting and Subcontracting with the City.

The Equal Opportunity/Equity Assurance Director shall establish project specific goals for each project or Contract based upon the availability of small disadvantaged business enterprises (SDBE's) within the defined scope of Work, delineated into percentages of the total value of the Work.

Equal Business Opportunity Ordinance SDBE Participation Documentation

If applicable information is not submitted with your Proposal, your Proposal shall be deemed non-responsive.

Declaration of Performance must be completed and submitted with your Proposal.

SDBE Participation Documentation must be used to document participation of Small Disadvantaged Business Enterprise (SDBE) on Professional Services projects. All SDBEs must be certified by the City of Durham's Equal Opportunity/Equity Assurance Department prior to submission date. If a business listed has not been certified, the amount of participation shall be reduced from the total utilization.

Managerial Profile must be used to list the managerial persons in your Workforce who shall be participating in this project.

Equal Employment Opportunity Statement for your company must be completed and submitted with your Proposal.

Employee Breakdown must be completed and submitted for the location providing the service/commodity. If the parent company shall be involved in providing the service/commodity on the City Contract, a consolidated employment breakdown must be submitted.

Letter of Intent to Perform as a Sub-consultant/Subvendor/Contractor must be completed for SDBEs proposed to perform on a Contract. This form must be submitted with the Proposal.

Post Proposal Submission SDBE Deviation

Post Proposal submission SDBE deviation participation documentation must be used to report and deviation from SDBE participation either prior to or subsequent to startup of the project. The Equal Opportunity/Equity Assurance Department must be notified if the proposed sub-consultant/Subvendor/Contractor is unable to perform and for what reasons. Substitutions of

sub-consultants/Subvendor/Contractor, both prior to and after awarding of a Contract, are subject to City approval.

SDBE Goals Not Met/Documentation of Good Faith Efforts

It is the responsibility of consultants/Vendor/Contractors to make good faith efforts. Good Faith Efforts means the sum total of efforts by a particular business to provide equitable participation of socially and economically disadvantaged employees and sub-consultants/Subvendor/Contractors.

Whenever Contract alternatives, amendments or extra Work orders are made individually or in the aggregate, which increase the total value of the original Contract, the consultant must make a good faith effort to increase SDBE participation such that the amounts subcontracted are consistent with the established goals.

SELECTION OF CONSULTANTS/VENDOR/CONTRACTORS FOR ARCHITECTURAL/ENGINEERING AND OTHER PROFESSIONAL SERVICES

Goal

The purpose is to provide Small Disadvantaged Businesses equal opportunities for participation on City of Durham Contracts.

Definition of the Scope of the Selection Policy

The Equal Opportunity/Equity Assurance Director shall establish SDBE participation goals for each Contract to be awarded by the City. Project specific goals for each project or Contract shall be based upon the availability of small disadvantaged business enterprises (SDBE's) within the defined scope of Work, delineated into percentages of the total value of the Work.

In addition to SDBE's specifically certified by the City and listed in a database maintained by the EO/EA Department, the City of Durham may consider a formal certification of another entity to determine whether an applicant meets requirements of the Equal Business Opportunity Program, provided that the City Manager or designee determines that the certification standards of such entity are comparable to those of the City. The City of Durham has determined that the following certifications are comparable to its own and may be used by bidders/proposers: North Carolina Department of Transportation (N.C. DOT), United States Small Business Administration (U.S. SBA) and Raleigh-Durham Airport Authority (RDU).

In lieu of SDBE's listed in its SDBE System, the City of Durham shall accept women and minority firms certified by N.C. DOT, U.S. SBA and RDU as meeting its SDBE goal requirements provided the bidder/proposer submits evidence that the firm is currently certified by one of the stated entities at the time of bid/Proposal. Failure to provide evidence of certification may disqualify the firm's participation for the purpose of meeting SDBE goals.

Any firm submitted in this manner shall be contacted and urged to complete an abbreviated certification process with the City of Durham. For purposes of this document and

associated forms, any reference to a “City Certified SDBE,” an “SDBE certified by the City” or similar reference shall include reference to a qualified women or minority owned firm certified and approved in accordance with the above paragraphs, even where specific reference is made to the City SDBE database.

Small Disadvantaged Business Proposal Requirements

The prime consultant/Vendor/Contractor shall submit a Proposal in accordance with the City of Durham’s request for Proposal. In addition, the prime consultant/Vendor/Contractor must submit all required Professional Services SDBE Forms.

Selection Committee for Professional Services

A selection committee shall be established to be composed of the following: City Manager or a designated representative of this office; Director of Finance or a designated representative of this office; Department head responsible for the project; City Engineer if engineering services are involved; the Equal Opportunity/Equity Assurance Director and Purchasing Manager. Other representatives shall be called upon as needed based on their areas of expertise.

The committee shall screen the Proposals based on the following criteria:

1. Firms; interest in the project;
2. Current Work in progress by firm;
3. Past experience with similar projects;
4. General Proposal for carrying out the required Work;
5. Designation of key personnel who shall handle the project, with resume for each;
6. Proposed associate consultants/Vendor/Contractors, SDBE sub-consultants;
7. Indication of capability for handling project;
8. Familiarity with the project;
9. References;
10. SDBE Participation; and
11. Documentation of Good Faith efforts.

After ranking the firms presenting Proposals based on the above criteria, interviews shall be conducted by the selection committee with the top ranked firms (3-5). The Contracting Department shall make the final recommendation, prepare Contracts for review by the City Attorney, and prepare the recommendation for the City Council including the following:

1. Description and scope of the project;
2. Recommended firm;
3. Contract cost;
4. Time limits;
5. Basis for selection;
6. Source for funding;
7. Equal Business Opportunity Ordinance compliance; and
8. Recommendation that the Contract be approved by the City Council.

Contract Award

A provision must be written in each Contract with an architect or engineer requiring them to Work with Equal Opportunity/Equity Assurance Department in creating and identifying separate Work.

Project Evaluation

An evaluation shall be made of each Contract after its completion to be used in consideration of future professional services Contracts. The evaluation shall cover appropriate items from the check list for ranking applicants. A copy of the evaluation shall be given to the consultant, and any comment he/she cares to make shall be included in the files.

DECLARATION OF PERFORMANCE BY CONSULTANT/VENDOR/CONTRACTOR

Briefly address each of the following items:

1. A brief description of the company and the products/services it provides:
2. Describe the normal procedure used on a bid of this type, giving the flow of purchase from the company to the ultimate purchaser:
3. List anyone outside of your company with whom you shall contract on this bid:

The undersigned consultant/Vendor/Contractor certifies that: (check appropriate box)

- a) ☐ It is the normal business practice of the consultant/Vendor/Contractor to perform all elements of the Contract with its own Workforce without the use of Subvendor/Contractors/vendors; and
- b) ☐ That the above documentation demonstrates this *firm's* capabilities to perform all elements of the Contract with its own Work force or without the use of Subvendor/Contractors/vendors.
- c) ☐ The Vendor/Contractor shall use a sub-consultant(s) in the fulfillment of this scope of Work.

Date

Authorized Signature

PARTICIPATION DOCUMENTATION
(TO BE COMPLETED BY PRIME CONSULTANT/VENDOR/CONTRACTOR ONLY)

Names of all firms

Project (including

prime and

sub-consultants/sub-
contractors)

Location

SDBE
Firm
Yes/No

Nature
of
Participation

% of Project
Work

TOTAL _____

Name - Authorized Officer of Prime Consultant/Vendor/Contractor Firm (Print/Type)

Signature - Authorized Officer of Prime Consultant/Vendor/Contractor Firm

Date

Managerial Profile

Name of Firm: _____

Contact Person: _____

Title: _____

Address: _____

Telephone No.: _____

Date: _____

List the managerial persons in your Work force who shall be participating in this project, including name, position, and whether the individuals are minority or woman within the definition* of the City of Durham’s Equal Business Opportunity Ordinance.

Managerial Employees

NAME	POSITION	SOCIALLY/ECONOMICALLY DISADVANTAGED* (YES/NO)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

* M-Minority (African American), W-Woman, Other-H-Hispanic, AI-American Indian, AS-Asian American, Disabilities

EMPLOYEE BREAKDOWN

Part A – Employee statistics for the primary location.

Employment category	Total employees	Total males	Total females	M— a — a — l — e — e — s					F — e — e — m — a — l — e — e — s				
				White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project manager													
Professional													
Technical													
Clerical													
Labor													
Totals													

Part B – Employee statistics for the consolidated company. *(See instructions for this form on whether this part is required.)*

Employment category	Total employees	Total males	Total females	M— a — a — l — e — e — s					F — e — e — m — a — l — e — e — s				
				White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project manager													
Professional													
Technical													
Clerical													
Labor													
Totals													

Letter of Intent to Perform as a Sub-Consultant

The undersigned intends to perform Work in connection with the above project as a SDBE:

Minority (African American) ☐ Woman ☐ Hispanic ☐
American Indian ☐ Asian American ☐ Disability ☐

The SDBE status of the undersigned is certified by the City of Durham as identified by the attached copy of certification or the attached SDBE Vendor/Contractor Identification List supplied by the EO/EA Department.

The undersigned is prepared to perform the following described Work in connection with the above project (specify in detail particular Work items or parts thereof to be performed):

You have projected the following commencement date for such Work, and the undersigned is projecting completion of such Work as follows:

<u>ITEMS</u>	<u>PROJECTED COMMENCEMENT DATE</u>	<u>PROJECTED COMPLETION DATE</u>

The consultant shall subcontract _____% of the dollar value of this Contract to a SDBE sub-consultant/Subvendor/Contractor and/or non-SDBE sub-consultant/Subvendor/Contractor.

The undersigned shall enter into a formal agreement in the amount of \$_____ for the above Work with you, conditioned upon your execution of a Contract with the City of Durham.

Name_____ Title_____

Company_____ Telephone_____

Address_____

Signature_____

REQUEST TO CHANGE SDBE PARTICIPATION

Project: _____

Name of bidder or consultant: _____

Name/title of representative bidder or consultant: _____

Address (including zip code): _____

Telephone number: _____ Fax number: _____

Email address: _____

Total amount of original Contract, before any change orders or amendments: _____

Total amount of the Contract, including all approved change orders and amendments to date, but not counting the changes proposed in this form: _____

Dollar amount of changes proposed in this form: _____

The proposed change (*check one*) **increases** **decreases** the dollar amount of the bidder's/consultant's Contract with the City.

Does the proposed change decrease the SDBE participation? (*check one*) ☐ **yes** ☐ **no**

If the answer is **yes**, complete the following:

BOX A. For the Subcontract proposed to be changed (increased, reduced, or eliminated):

Name of sub-consultant: _____

Goods and services to be provided before this proposed change: _____

Is it proposed to eliminate this Subcontract? ☐ yes ☐ no

If the Subcontract is to be increased or reduced, describe the nature of the change (*such as adding \$5,000 in environmental Work and deleting \$7,000 in architectural*): _____

Dollar amount of this Subcontract before this proposed change: _____

Dollar amount of this Subcontract after this proposed change: _____

This sub-consultant is (*check one*):

- ☐ 1. City-certified Black-owned SDBE
- ☐ 2. City-certified Women-owned SDBE
- ☐ 3. City-certified SDBE that is neither Black-owned nor women owned, but to be credited as
 - ☐ 3(a) Black-owned SDBE ☐ 3(b) Women-owned SDBE
- ☐ 4. not a City-certified SDBE

BOX B. Proposed Subcontracts other than the Subcontract described in Box A above

Name of Subvendor/Contractor for the new Work: _____

Goods and services to be provided by this proposed Subcontract: _____

Dollar amount proposed of this proposed Subcontract: _____

This Subvendor/Contractor is (*check one*):

1. City-certified Black-owned SDBE
2. City-certified women-owned SDBE
3. City-certified SDBE that is neither Black-owned nor women owned, but to be credited

as 3(a) Black-owned SDBE 3(b) Women-owned SDBE

4. not a City-certified SDBE

Add additional sheets as necessary.

SDBE GOALS NOT HAVING BEEN MET. The following information must be presented by the consultant concerning good faith efforts taken.

It is the responsibility of consultants to make good faith efforts. Any act or omission by the City shall not relieve them of this responsibility. For future efforts, it shall be comprised of such efforts which are proposed to allow equitable participation of socially and economically disadvantaged employees and sub-consultants/Subvendor/Contractors. The City Manager shall apply the following criteria, with due consideration of the quality, quantity, intensity and timeliness of efforts of consultants/Vendor/Contractors, in determining good faith efforts to engage SDBEs along with other criteria that the City Manager deems proper:

Name of Bidder: _____

*If you find it helpful, feel free to attach pages to explain your answers. **How many pages is your firm attaching to this questionnaire?** _____ (Don't count the 2 pages of this questionnaire.)*

If a yes or no answer is not appropriate, please explain the facts. All of the answers to these questions relate only to the time before your firm submitted its bid or Proposal to the City. In other words, actions that your firm took after it submitted the bid or Proposal to the City cannot be mentioned or used in any answers.

1. SOLICITING SDBEs.

(a) Did your firm solicit, through all reasonable and available means, the interest of all SDBEs certified

(that is, in the City's database) in the scope of Work of the Contract? ☐ **yes** ☐ **no**

(b) In such soliciting, did your firm advertise? ☐ **yes** ☐ **no** Are you attaching copies to this

questionnaire, indicating the dates and names of newspaper or other publication for each ad if that

information is not already on the ads? ☐ **yes** ☐ **no**

(c) In such soliciting, did your firm send written (including electronic) notices or letters? Are you

attaching one or more sample notices or letters? ☐ **yes** ☐ **no**

(d) Did your firm attend the pre-bid conference? ☐ **yes** ☐ **no**

(e) Did your firm provide interested SDBEs with timely, adequate information about the plans, specifications, and requirements of the Contract? ☐ **yes** ☐ **no**

(f) Did your firm follow up with SDBEs that showed interest? ☐ **yes** ☐ **no**

(g) With reference to the SDBEs that your firm notified of the type of Work to be subcontracted did your firm tell them:

(i) the specific Work your firm was considering for subcontracting? ☐ **yes** ☐ **no**

(ii) that their interest in the Contract is being solicited? ☐ **yes** ☐ **no**

(iii) how to obtain and inspect the applicable plans and specifications and descriptions of items to be purchased? ☐ **yes** ☐ **no**

2. BREAKING DOWN THE WORK.

(a) Did your firm select portions of the Work to be performed by SDBEs in order to increase the likelihood that the goals would be reached? ☐ **yes** ☐ **no**

(b) If **yes**, please describe the portions selected. **ANSWER:**

3. NEGOTIATION. In your answers to 3, you may omit information regarding SDBEs for which you are providing Form E-105.

(a) What are the names, addresses, and telephone numbers of SDBEs that you contacted? **ANSWER:**

(b) Describe the information that you provided to the SDBEs regarding the plans and specifications for the Work selected for potential subcontracting. **ANSWER:**

(c) Why could your firm not reach agreements with the SDBEs that your firm made contact with? Be specific. **ANSWER:**

4. ASSISTANCE TO SDBEs ON BONDING, CREDIT, AND INSURANCE.

(a) Did your firm or the City require any Subvendor/Contractors to have bonds, lines of credit, or insurance?

☐ **yes** ☐ **no** (Note: In most projects, the City has no such requirement for *Subvendor/Contractors*.)

(b) If the answer to (a) is **yes**, did your firm make efforts to assist SDBEs to obtain bonds, lines of credit, or insurance? ☐ **yes** ☐ **no** If **yes**, describe your firm's efforts.

ANSWER:

(c) Did your firm provide alternatives to bonding or insurance for potential Subvendor/Contractors?

☐ **yes** ☐ **no** If **yes**, describe. **ANSWER:**

5. GOODS AND SERVICES. What efforts did your firm make to help interested SDBEs to obtain goods or services relevant to the proposed subcontracting Work? **ANSWER:**

6. USING OTHER SERVICES.

(a) Did your firm use the services of the City to help solicit SDBEs for the Work?

☐ **yes** ☐ **no**

Please explain. **ANSWER:**

(b) Did your firm use the services of available minority/women community organizations, minority and women Vendor/Contractors' groups, government-sponsored

minority/women business assistance agencies, and other appropriate organizations to help solicit SDBEs for the Work? ☐ **yes** ☐ **no**
Please explain. **ANSWER:**